

BODH GAYA MAHABODHI MAHA VIHARA ACT....



Proposed Bill for;

kind consideration of Parliament,
the supreme law making body of India.



Emperor Ashoka

The Mahabodhi Temple Complex is one of the four holy sites related to the life of the Lord Buddha, and particularly to the attainment of His Enlightenment. The temple was built by Emperor Ashoka in the 3rd century B.C.

From **UNESCO** Document

Publisher :-

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***Both Gaya Mahabodhi
Maha Vihara Act...***

Proposed Bill for;

*kind consideration of the Parliament,
the supreme law making body of India.*

Document Drafting Committee.

His Holiness Bhadant Arya
Nagarjuna Shurei Sasai
Devidas Ghodeswar;
Yogesh Mandpe;
Bhayyaji Khairkar; and
Pawan Shelare

Dedication

The Document is dedicated to :

The Buddhist Emperor, Asoka, who was the Dhamma Chakra Pravartak, after Lord Buddha the Enlightened and who had established and built Bodh Gaya Mahabodhi Maha Vihara at a place where Siddhartha Gautama attained the Enlightenment and became Lord Buddha the Enlightened.

Dr. Babasaheb Ambedkar, the Dhamma Chakra Pravartaka after Emperor Asoka, who had brought Lord Buddha the Enlightened and His Dhamma back to the land of their origin.

Bhadant Anagarika Dhammapala, who had launched the struggle for the liberation of Bodh Gaya Mahabodhi Maha Vihara, in the year 1891, and continued it throughout his life.

Twenty Shahids, who sacrificed their lives and thousands of Bhikkus and lakhs of Buddhists, who are relentlessly participating in the struggle for liberation of Bodh Gaya Mahabodhi Maha Vihara and who are determined to "Stop not till the Vihara is liberated".

His Holiness, Bhadant Arya Nagarajuna Shurei Sasai

सहितम् ३ गुणितम् ८ ताम्रम् ८

अयम् जगद्गुरुः श्री

बौद्ध धर्मः

देवः

महाराजः

भगवान् श्री

गुरुः

Appeal

What a irony of the situation? Bodh Gaya Mahabodhi Maha Vihara, a place, where 'Tathagata', 'the Marg Data' attained His Enlightenment, is in bondage and needs to be liberated. Relentless struggle for liberation of 'Bodh Gaya Mahabodhi Maha Vihara' is going on. More than century old struggle is still continued and will stop not till the 'Bodh Gaya Mahabodhi Maha Vihara' is liberated.

Therefore, on behalf of Indian Buddhists, and the world Buddhist fraternity, I appeal to the Parliament, the supreme law making body of India, for their kind consideration of this 'Document' and enacting a suitable legislation for;

"Vesting management and control of Bodh Gaya Mahabodhi Maha Vihara' exclusively to the Buddhists of India" and restore their fundamental right of "Freedom to manage their religious affairs" guaranteed under Article 26 of the Constitution. Please do enact the suitable legislation to that effect, and;

Honour the Constitution in its letter and spirit and do a justice to the humble followers of Lord Buddha the Enlightened and Dr. Babasaheb Ambedkar, the founding father of our Constitution.

With Regards.

Yours Sincerely

His Holiness, Bhadant Arya Nagarjuna Shurei Sasai

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PART - I

*Eminence and significance
of Bodhi Gaya Mahabodhi Maha Vihara*

PART - I

Eminence and significance of Bodh Gaya Maha Bodhi Maha Vihara for humankind in general and world Buddhist fraternity in particular.

Encyclopaedia Britannica (volume 3) says;

"Under the Pipal tree in Gaya (subsequently called Both Gaya) in about 525 BC, [Buddha] achieved Enlightenment (Bodhi) and then became a (or the) Buddha (Enlightened One)." [Buddha]

And this pipal tree is a principle relic of the Bodh Gaya Mahabodhi Maha Vihara. UNESCO documents say the following:

* Mahabodhi Temple;

"The Mahabodhi Temple is a Buddhist Temple in Bodh Gaya, the location where Siddhartha Gautama the Buddha attained Enlightenment. Bodh Gaya is located about 96 km (60 miles) from Patna, Bihar, State India. Next to the temple, on its western side is the holy Bodhi tree."

"The Mahabodhi Temple Complex is one of the four holy sites related to the life of Lord Buddha, and particularly to the attainment of His Enlightenment. The first temple was built by Emperor Asoka in the 3rd century BC, and the present temple dates from 5th to 6th centuries. It is one of the earliest Buddhist temples built entirely in brick, still standing in India from the Gupta period."

"Traditional accounts say that around 530 BC Gautama Buddha, a wandering monk, reached the Sylvan banks of Falgu River near the city of Gaya, Bihar. There he sat in meditation under a pipal tree (Ficus religiosa or sacred fig) which later became known as Bodhi Tree. According to Buddhist scriptures, after three days and three nights, Siddhartha attained Enlightenment and gave answers that He had sought. Mahabodhi Temple was built to mark that location."

Construction:

In approximately 250 BC, about 250 years after the Buddha attained Enlightenment, the Buddhist Emperor Asoka visited Bodh Gaya with the intention of establishing a monastery and shrine. As part of the temple he built the diamond-shaped stupa (called the Vajrasana) attempting to mark its exact spot of the Buddha's Enlightenment was established. Asoka is considered the founder of Mahabodhi Temple."

"The Mahabodhi Temple at Bodhi Gaya is located on the spot where the Buddha attained Enlightenment. The temple's principle relic is a distant descendant of the Bodhi tree under which the Buddha sat when His Enlightenment took place. The site having been sacred to Buddhists, since the earliest days of the faith, is of unknown antiquity. Elements of the Temple date from 3rd century BC, but the present form of the temple is reconstruction of a later from that would have been familiar to Hiuen Xsiang, the 7th century Chinese Buddhist Pilgrim.

The Enlightenment:

- Thus with mind concentrates, purified, spotless, with defilement gone, supple, dexterous, firm, impassion to not forgetting what he is after, Gautama concentrated himself on the problem of finding an answer to the question which had troubled him.
- On the night of the last day of the first week light dawned upon him. He realised that there were two problems. The first problem was that there was suffering in the world and the second problem was how to remove this suffering and make mankind happy.

- So in the end after meditation for four weeks, darkness was dispelled, light arose, ignorance was dispelled and knowledge arose. he saw a new way.

What Lord Buddha, the Enlightened and his Dhamma offered to humanity;

A quote from Encyclopaedia Britannica (Volume 3)

The four noble Truths :

Awareness of these fundamental realities led the Buddha to formulate : the four noble truths; the truth of misery (dukkha, dukkha); the truth that misery originates within us from the craving for pleasure and for being or non-being; the truth that this craving can be eliminated; and the truth that this elimination is the result of methodical way or path that must be followed. Thus there must be an understanding of the mechanism by which man's psychological being evolves, otherwise man should remain indefinitely in sansar, in the continued flow of transitory existence".

Some quotes from 'Buddha and His Dhamma' ;

According to Dr. Babasaheb Ambedkar, the Dhamma Chakra Pravartak, the most significant contribution of Lord Buddha the Enlightened and His Dhamma to humanity is ; "His denial of the existence of God and Soul"

The functions of Buddha's Dhamma are ;

- * To cleanse the mind of its impurities.
- * To make the world a kingdom of Righteousness.
- * Dhamma makes learning open to all.
- * Dhamma teaches that mere learning is not enough.
- * It may lead to pedantry.
- * Dhamma teaches that what is needed as Pradnya.
- * Dhamma teaches that mere Pradnya is not enough. It must be accompanied by Sila.
- * Dhamma teaches that besides Pradnya and Sila what is necessary is Karuna.
- * Dhamma teaches that more than Karuna what is necessary is Maitri.
- * Dhamma must break down barriers between man and man.
- * Dhamma teaches that worth and not birth is the measure of a man.
- * Dhamma must promote equality between man and man.

Encyclopaedia of Religion and Ethics (Vol. X) says ;

"A vow to spread His Dhamma"

"There are beings without limit.
Let us take the vow to convey them all across.
There are depravities in us without number,
Let us take a vow to extinguish them all.
There are truths without end,
Let us take the vow to comprehend them all.
There is a way of Buddha without comparison.
Let us take the vow to accomplish it perfectly."

Tributes to the Buddha's Greatness

- "A question is always asked to me, why I am inclined towards Buddhism? The direct answer to this question is that I regard the Buddha's Dhamma to be the best. No religion can be compared to it. If a modern man who knows science must have a religion, the only religion he can have is the Religion of the Buddha. This conviction has grown in me after thirty-five years of close study of all religions".

- Dr. B. R. Ambedkar.

- "Man has been ruled by external authority long enough. If he is to be truly civilized, he must learn to be ruled by his own principles. Buddhism is the earliest ethical system where man is called upon to have himself governed by himself."
"Therefore; a progressive world needs Buddhism to teach it this supreme lesson."

- Mr. E. G. Taylor, in his "Buddhism and modern Thought."

Among the world's religious teachers, Buddha alone has the glory of having rightly judged the intrinsic greatness of man's capacity to work out his salvation without extraneous aid."

"If the worth of truly great man consists in his raising the worth of all mankind, who is better entitled to be called truly great than the Blessed One".

"Who instead of degrading him by placing another being over him has exalted him to the highest pinnacle of wisdom and love"

- Prof. Dwight Goddard.

Significance of Mahabodhi Maha Vihara as World Heritage :

- UNESCO-Date of Inscription 2002 : In June 2002 the Mahabodhi Temple became a UNESCO World Heritage site specifically nominated for International World Heritage Programme.

All finds of the religious artifacts in the area are legally protected under the Treasure Trove Act of 1878".

Justification for Inscription :

- Criterion
- (I) The grand 50m high Mahabodhi Temple of the 5th-6th centuries is of immense importance, being one of the earliest temple constructions existing in the India sub-continent. It is one of the few representations of the architectural genius of the Indian people in constructing fully developed brick temple in that era.
 - (II) The Mahabodhi Temple, one of the few surviving examples of early brick structures in India, has had significant influence in the development of architecture over the centuries.
 - (III) The site of Mahabodhi Temple provides exceptional records of events associated with the life of Buddha and subsequent worship, particularly since Emperor Asoka built the first temple, the balustrades, and the memorial column.

- (IV) The present temple is one of the earliest and most imposing structures built entirely in brick from the late Gupta period. The sculpted stone balustrades are an outstanding early example of sculptural reliefs in stone.

- (V) The Mahabodhi Temple complex in Bodhi Gaya has direct association with the life of Lord Buddha being the place where He attained the supreme and perfect insight.

In this perspective it is established that;

- * The Mahabodhi Maha Vihara Complex is one of the four holy sites related to the life of Lord Buddha, and particularly to the attainment of His Enlightenment.
 - * In approximately 250 BC about 250 years after the Buddha attained Enlightenment, Buddhist Emperor Asoka visited Bodhi Gaya with the intention of establishing a monastery and shrine. As part of the Maha Vihara he built, the diamond throne (called the Vajrasana) attempting to mark the exact spot of the Buddha's Enlightenment, was established. Asoka is the founder of Mahabodhi Maha Vihara.
 - * The Mahabodhi Maha Vihara's principle relic is a Bodhi Vriksha (Pipal tree) under which the Buddha attained Enlightenment.
 - * Mahabodhi Maha Vihara is the holiest place for the Buddhists all over the world.
 - * Mahabodhi Maha Vihara is one of the holiest places revered by the humanity.
 - * Mahabodhi Maha Vihara belongs to world heritage list; hence it should be protected by heart and head, both.
- Therefore, we, the Buddhists of India, on behalf of world Buddhist fraternity, and also on behalf of all the human beings humbly submit that "The management and control of Bodhi Gaya Mahabodhi Maha Vihara should exclusively be entrusted to the Buddhists of India".

PART - II

*Justification for enactment of "Bodh Gaya Mahabodhi
Maha Vihara Act.. by the Parliament*

PART - II

Justification for enactment of "Bodh Gaya Mahabodhi Maha Vihara Act"... by the Parliament.

for entrusting management and control of Mahabodhi Maha Vihara, exclusively to Indian Buddhists.

We, the Indian Buddhists, do hereby solemnly resolve that the Indian Parliament should enact a "Bodh Gaya Mahabodhi Maha Vihara Act"... for entrusting the management and control of Bodh Gaya Mahabodhi Maha Vihara exclusively to Indian Buddhists.

The Justifications :

- Universal Declaration of Human Rights 1948.

Article 18 says;

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Read the above with International Covenant on Civil and Political Rights, 1966, which reads as follows;

Article 18 : 1 : Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Article 18 : (2) : No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

Article 27 : In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion or to use their own language.

Read the above along with International Convention on the "Elimination of all forms of Racial Discrimination, 1966,"

Article 1

In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose of nullifying or impairing the recognition, enjoyment or exercise on the equal footing of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Article 5 (d) (VII) which reads as;

- The right to freedom of thought, conscience and religion.

We, the Indian Buddhists, strongly feel that all the above rights are inclusive of Right to own, manage and control the religious places and institutions by the followers of that particular religion without any interference of the followers of other religion. Therefore, we, the Indian Buddhists, demand that, we shall have exclusive right to own, manage and control, Bodh Gaya Mahabodhi Maha Vihara and to that effect the Parliament should enact a "Bodh Gaya Mahabodhi Maha Vihara Act".

Constitutional Guarantees :

In this regard Indian Constitution recognizes fundamental rights and provides guarantees as under :

The Preamble of the Constitution says;

- LIBERTY of thought, expression, belief, faith and worship;

Part III : Fundamental Rights;

Article 25 : Right to freedom of Religion;

Freedom of conscience and free profession, practice and propagation of religion; Subject to public order, morality and health and to the other provisions of the part, all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion.

Article 26 : Freedom to manage religious affairs.

Subject to public order, morality and health, every religious denomination or any institution thereof shall have the right;

to establish and maintain institutions for religious and charitable purposes;

- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

We, the Indian Buddhists, are the citizens of India, and are equal citizens of India, and we are proud of it. Article 25 of our Constitution guarantees us;

"Freedom of conscience and free profession, practice and propagation of religion".

At the same time, Article 26 of our Constitution guarantees us; "Freedom to manage our religious affairs".

But, we, the Buddhists of India, are externally sorry to note that;

In the matters of "Bodh Gaya Mahabodhi Maha Vihara" a holiest place not only for the Indian Buddhists but also for the Buddhist fraternity of the world are denied.

Freedom to manage our religious affairs guaranteed by Article 26 in general and Article 26 (b) (c) and (d) in particular and hence we, the Indian Buddhists, are denied the "Right to freedom of Religion" guaranteed by Article 25 of our Constitution.

In brief, we the Indian Buddhists, in the matter of Bodh Gaya, Mahabodhi Maha Vihara, are denied the fundamental rights guaranteed by our Constitution under Article 25 and 26.

Therefore, we, the Indian Buddhists, humbly plead to the Parliament of India to enact a suitable legislation for restoring our fundamental rights guaranteed by our Constitution under Article 25 and 26 in the matter of Bodh Gaya Mahabodhi Maha Vihara, and entrust the management and control of Bodh Gaya Mahabodhi Maha Vihara exclusively to Indian Buddhists.

- Judicial interpretation of "Right to establish and maintain religious institution" as provided in clause (a) of Article 26 of Indian Constitution "The word established and maintain must be read conjunctively. The right to maintain would no doubt include the right to administer such institution. But the right will arise only where the institution has been established or brought into existence by the religious denomination which claims that right.

(Azeez Basha, V. Union of India, AIR 1968 SC 662 (674) 1968 (1) SCR 833)

(Khajamian Estates V. State of Madras AIR 1971 SC (161) (para 12); (1970) 3 SCC 894)

We, the Indian Buddhists, rightly claim that, Bodhi Gaya Maha Bodhi Maha Vihara is established and brought into existence by the Buddhist Emperor Asoka, and therefore; Mahabodhi Maha Vihara is established and brought into existence by Buddhists. This claim is also established in the verdict of Calcutta High Court in which Hon'ble Justice Mr. Mc-Pherson observed that;

"It is mentioned that the Maha Bodhi Temple which is very ancient and very sacred to the Buddhists, was a Buddhist Temple. Although it was in the possession of a Hindu Mahant, it has never been converted into a Hindu Temple in a sense that Hindu idols have been enshrined or orthodox Hindu worship carried on there and that Buddhists pilgrims have had free access and liberty to worship in it.

In the case filed by Bhadant Anagarika Dharmapala Hon'ble District Court also observed that :

"The temple was continuously and regularly been used as a Buddhist place of worship by Buddhists pilgrims. No form of Hindu worship had been carried on inside the Mahabodhi Temple and there is nothing to show that any such worship (Hindu worship) had been carried on for many centuries."

As it is been established beyond doubt that Bodhi Gaya Mahabodhi Maha Vihara is established and brought into existence by the Buddhists; Therefore, it is but natural that Buddhists have exclusive right under Article 26 of our Constitution to maintain the Mahabodhi Maha Vihara including the right to administer it. Hence, we request the Parliament to enact a suitable legislation to that effect to restore our Right to maintain and administer the Mahabodhi Maha Vihara.

Judicial Interpretation of 'right to administer property' as provided in clause (d) of Article 26.

A religious denomination is entitled to own, acquire and administer the property, for the purposes to which it was dedicated but only in accordance with law. This means that State can regulate the administration of Trust properties by means of law validly enacted but here again, it is the religious denomination itself which has been given the right to administer its property in accordance with any law which the State may validly impose. A law which takes away the right of administration altogether from the religious denomination and rests it with any others secular authority, would amount to violation of the right which is guaranteed by Article 26 (d) of the Constitution. In short, the administration of the property must remain with the religious institution, though it may be regulated by law. Regulation by the State, again cannot interfere with things which are essentially religious" though it may be regulated by law.

Saifuddin Sahab Sardar Syedna Taher V. State of Bombay, AIR 1962, SC 883, (869-74) : 1962 supp (2) SCR 496, Commr; HREV Lakshmindra Thriattha Swarniar (1954) SCR 1005 (1029, 1035-36); AIR 1954 SC 282; Ratilal Panachand Gandhi V. State of Bombay, (1954) SC 1055 (1069) AIR 1954 SC 388; Varu Digya Darsan Rajendra Ramdassji V. State of A.P. AIR 1970 SC 181 : (1969) 1 SCC 8440

This verdict categorically establishes that "A religious denomination is entitled to own, acquire and administer the property, for the purpose to which it was dedicated but only in accordance with law"

But in case of Bodhi Gaya Mahabodhi Maha Vihara, Indian Buddhists are not entitled to own, acquire and administer the property for the purposes to which it is dedicated. Hence, it is a denial of fundamental right guaranteed to Indian Buddhists under Article 26 (d) of the Constitution. To restore this fundamental right, we, the Indian Buddhists, request to the Parliament to enact a suitable legislation to that effect.

Struggle for entrusting the ownership, management and control of Bodhi Gaya Mahabodhi Maha Vihara exclusively to Indian Buddhists.

- In the 1880s, the then British Government of India began to restore Mahabodhi Maha Vihara under the direction of Sir Alexander Cunningham. A short time later, the Sri Lankan Buddhist Bhikkhu Bhadant Anagarika Dharmapala commenced a struggle to return the control of Maha Vihara to Buddhists. For this purpose he formed a Maha Bodhi Society. He devoted rest of his life to get the control of the Maha Vihara restored to the Buddhists. He struggled throughout his life for the cause. Several times he was beaten and had spent a fortune in protracted legal battles. But he died in 1933 without accomplishing his mission.

- After the death of Bhadant Anagarika Dharmapala, the struggle for liberation of Maha Vihara remained dormant for some decades. Then in the year 1991 His Holiness Bhadant Arya Nagarjuna Shurei Sasai appeared on the scene to led a century old struggle for the liberation of Maha Vihara.
- His Holiness commenced the struggle by organising a Dhamma Yatra from Chaitya Bhoomi, Mumbai to Bodhi Gaya. The Yatra had began on 27th Oct. 1992.
- His Holiness, along with his followers in thousands, organised a strike in front of the Parliament in New Delhi from 1st to 6th Dec. 1992. 6th Dec. happens to be a "Maha Pari Nirvan Diwas" of Dr. Bhabasaheb Ambedkar, the Dhamma Chakra Pravartaka.

- During this period His Holiness submitted memorandum to His Excellency the President of India and other dignitaries.
- On 14th oct. 1992 it was reported that "Thousands of Buddhists hold a rally at Boat Club lawns to demand the liberation of Maha Vihara.
- On 13th and 14th March 1993 a two day International Conference was organised to focus the world attention on the issue. In this conference Buddhist Bhikkus from Japan, Thailand, Myanmar, China, Sri Lanka and USA participated.
- On 14th Oct. 1993 around 3000 Buddhist Bhikkus staged Dharna in front of the residence of the Prime Minister demanding liberation of Maha Vihara.
- On 6th June 1994 the fifth phase of Mahabodhi Maha Vihara Liberation Movement was launched. His Holiness along with thousands of Buddhist Bhikkus and more than two and half lakh Buddhists from all over the country, took out a huge peace morcha in Bodha Gaya.
- 1997 was a crucial year. In this year His Holiness started indefinite dharana at Jantar Mantar, New Delhi since 25-2-1997.
- During this 18th month long dharna His Holiness was on hunger strike for 21 days.
- The then Hon'ble Minister for Home Affairs, Sri Indrajit Gupta took the cognizance of this Dharna and wrote on 3rd oct. 1997 to Ms. Rabri Devi, the then Hon'ble Chief Minister of Bihar.
- The Contents of the letter were...
- "Buddhists have, however been agitating for the last few years for vesting the management of Bodh Gaya Temple exclusively to the Buddhists community. The Bodh Gaya, Mahabodhi Maha Vihara All India Action Committee have been on indefinite dharana at Jantar Mantar, New Delhi, since 25-2-1997."
- "The representatives of the Buddhists met me and concerned officers of my Ministry several times. Copies of various representations submitted by the Buddhists were also sent by my Ministry to the Govt. of Bihar for appropriate action...."
- I am confident that your personal intervention and direction in the matter, would go a long way in ensuring the smooth and effective functioning of the Bodh Gaya Temple authorities."
- Later on His Holiness was nominated as a Member of National Commission for Minorities by Govt. of India. His Holiness changed his strategies and con-

tinued lobbying with various dignitaries. Still His Holiness has continued his struggle for liberation of Maha Vihara because it has become a life mission for His Holiness.

In recognition of the long drawn struggle for liberation of Maha Vihara, it is being demanded by the Indian Buddhists that, the Parliament should enact a suitable legislation for restoring right to ownership, management and control of Maha Vihara exclusively to Indian Buddhists.

The International Concern on the Issue.

- The Buddhist fraternity all over the world is deeply concerned with the issue of liberation of Mahabodhi Maha Vihara. They feel that the Right to own, manage and control Maha Vihara should be exclusively entrusted to Indian Buddhists. For this purpose delegations are regularly seeking attendance with the concerned authorities and submitting the memorandums.

Resolution passed by "World Buddhist Conference" held on 1st Oct. 2006 at Deeksha Bhoomi, Nagpur.

As a part of Golden Jubilee Celebrations of 'Dhamma Chakra Pravartan' 2006, a 'World Buddhists Conference' was held on 1st Oct. 2006 at Deeksha Bhoomi, Nagpur. His Excellency the Governor of Bihar, Sri R. S. Gavai was the Guest of Honour and His Holiness Bhadrant Arya Nagarjuna Shurei Sasai presided over the conference.

The delegates and dignitaries from USA, Thailand, Canada, Myanmar, Sri Lanka, China & Japan were present in the conference.

In the conference regarding "Entrusting the ownership, management and control of Mahabodhi Maha Vihara exclusively to Indian Buddhist" following resolution was adopted unanimously.

As

- The Mahabodhi Maha Vihara complex is one of the four holy sites related to the life of Lord Buddha and particularly to the attainment of His Enlightenment;
- The Mahabodhi Maha Vihara complex in Bodha Gaya has direct association with the life of Lord Buddha being the place where He attained the supreme and perfect insight;
- In approximately 250 BC, about 250 years after the Lord Buddha attained Enlightenment, Buddhist Emperor Asoka constructed this Mahaviharā and

built the diamond throne (called the Vajrasana) attempting to mark the exact spot of Buddha's Enlightenment; "The Mahabodhi Maha Vihara's principle relic is a Bodhi Vriksha (Pipal Tree) under which Buddha attained Enlightenment.

Therefore;

- Mahabodhi Maha Vihara is the holiest place for the Buddhists all over the world.
- Mahabodhi Maha Vihara is one of the holiest places to be revered by all human beings;

As

- Universal Declaration of Human Rights, 1948, guarantees Right to Freedom of Religion" including right to own, manage and administer the religious places by the followers of that particular religion;
- Constitution of India guarantees "Right to freedom of conscience, and free profession, practice and propagation of religion" including "Right to manage its own affairs in matters of religion."

We, the delegates of 'World Buddhist Conference' hereby

Resolved that "The Fundamental Right of Indian Buddhists to own, manage and administer the affairs of Bodh Gaya Mahabodhi Maha Vihara in its exclusiveness be restored with immediate effect;" and

"We, the delegates of 'World Buddhists conference' hereby request the Indian Parliament, the supreme law making body, to enact a suitable legislation for restoring this Fundamental Right of Indian Buddhists and do a favour to world Buddhist fraternity"

It clearly indicates that world Buddhists fraternity strongly feels that, the Indian Parliament should enact a suitable legislation for entrusting the ownership, management and administration of Bodh Gaya Mahabodhi Maha Vihara exclusively to Indian Buddhists.

His Holiness expressed his sincere gratitude towards the delegates from various Buddhist countries for adopting the above resolution unanimously urging the Union Government for enacting a Bodh Gaya Mahabodhi Maha Vihara Act for entrusting the management and control of the Mahabodhi Maha Vihara exclusively to the Indian Buddhists.

Representation from the People of Japan.

The President of India

The Prime Minister of India

The Chief Minister of Bihar State

Respected Sir,

We, the people of Japan, believe in the doctrine of different religions and we think that the doctrine of the founder of every religion should be respected. At the same time, the holy places where the founders started their teachings should be taken care of by that religion's followers. We believe in this.

As you know, Buddhagaya—the holy land of all the Buddhist people of the world—is not managed and taken care of by the Buddhist people of India. That is why we request that the Maha Bodhi Mahur Vihara should be managed and taken care of by the Buddhist people of India. We think that all the people of the world should enjoy their spiritual endeavour equally in this holy land.

Looking beyond the religious forms and doctrines, we have great faith that tolerance and equality will prevail on earth. We hope that the government of India will consider this issue with great understanding and will give their whole-hearted support.

With great thanks,

Date _____
'The President of Doshurui

津田光昭
(Tsuda Mitsuo)

From the records of National Commission for Minorities

NCM recommendations for vesting the Temple management exclusively with the Buddhists.

On several occasions during the last 10 years, the National Commission for Minorities had made recommendations to the Union Government repeatedly for enactment of appropriate legislation for vesting the management of Bodhi Gaya Temple exclusively with the Buddhists. The recommendation was communicated to Union Home Secretary in February, 1996 and it also appeared in the Commission's Annual Report of 1997-98. Since September 2003, S. Tarlochan Singh, Chairman, NCM has been writing letters to Chief Minister of Bihar in this regard. In December 2003, he visited Patna and discussed the matter with the Chief Minister.

- NCM in its meeting held on 30th March 2005 adopted a unanimous resolution that since the provisions of Bodhi Gaya Temple Act 1949 are not in harmony with the Article 26 of the Constitution, the 1949 Act should either be amended or repealed and appropriate legislation be enacted so that the management of Bodhi Gaya Temple is vested exclusively with the Buddhists. In the same meeting it was also decided that the Resolution be forwarded to the Union Government as well as Government of Bihar as a Statutory recommendation of a Commission.

National Commission for Minorities also strongly recommends that, the management of Bodhi Gaya Mahabodhi Maha Vihara should be vested exclusively with the Buddhist and to that effect a suitable legislation be enacted by Union Government.

Here it will be appropriate to quote the wishes of Mahatma Gandhi and

“इसमे सन्देश की तनिक भी गुंजाईश नहीं है, की बुद्धाया का महाबोधि मन्दिर बौद्धों के ही हाथ में होना चाहिए।... यदि हम इस मन्दिर को उन्हें वापस दिलाने में जिनका उसपर न्याय अधिकार है, कुछ सहायता कर सके तो हमें अभिमान होना चाहिए। अपने बौद्धों उस मन्दिर संबंधी जो प्रश्न उठाया है, वह एक क्षण में हल हो सकता है, यदि भारत को स्वराज्य प्राप्त हो।... इस काम को करने के लिए हिन्दुस्तान के इतिहास में एक खास वक्त आयेगा। जब इस काम को करना ही पड़ेगा।

Gurudeo Rabindranath Tagore:

“मैं समझता हूँ कि, न्याय और स्वतंत्रता में विश्वास रखनेवाले सभी व्यक्तियोंका यह परम कर्तव्य है, की वह इस ऐतिहासिक स्थान को उन लोगों को वापस दिलाने के प्रयत्न में वे सहायता करें, जो आज भी बुद्ध धर्म के प्रवाह को अपने श्रद्धामय जीवन में जारी रखे हुये है। बुद्धाया को एक विरोधी संप्रदाय के हाथ में उसे

रहने देना असह्य अन्याय है।

- धम्मदूत 3/7 नवंबर 1937 "बुद्धाया मन्दिर और काँग्रेस सरकार"

In conclusion, the Indian Buddhists plead that;

- To honour the Universal Declaration of Human Rights, 1948, and restore the right to freedom of thought, conscience and religion guaranteed under Article 18, to the Indian Buddhists;
- To honour the International Covenant on Civil and Political Rights 1966 and to restore the right to freedom of thought, conscience and religion guaranteed under Article 18(1), Article 18(2) and Article 27, to Indian Buddhists.
- To honour the International Convention on the Elimination of all forms of Racial Discrimination 1966, Article 5 (a) (vii) which guarantees that 'The right to freedom of thought, conscience and religion and to restore this right to Indian Buddhists;
- To honour the fundamental rights and guarantees granted by Indian Constitution under Articles 25 (1), Article 26 (a) (b) (c) and (d) and to restore these rights and guarantees to Indian Buddhists;
- To honour the Hon'ble Supreme Court's Judgements in this regard;
- To give a positive response to century old struggle for liberation of Mahabodhi Maha Vihara;
- To give a positive response to International Concerns;
- To honour the wishes of Mahatma Gandhi & Gurudeo Rabindranath Tagore; and
- To honour the Statutory recommendation of National Commission for Minority; Indian Parliament should enact a suitable legislation for restoring a fundamental right of Indian Buddhists to exclusively own, manage and administer the affairs of Bodhi Gaya Mahabodhi Maha Vihara.

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PART - III

Why the (Bihar Act XVII of 1949)

The Bodhi Gaya Temple Act, 1949

Be repealed?

PART - III

Why the (Bihar Act XVII of 1949)

The Bodh Gaya Temple Act, 1949

Be repealed?

The salient features of the Act.

Section	
1:1	Short Title : This Act may be called "the Bodh Gaya Temple Act, 1949."
2:C	"The Mahant' means the presiding priest for time being of Saivite Monastery of Bodh Gaya.
3	Constitution of the Committee
3:1	As soon as may be after the commencement of this Act. State Government shall constitute a Committee as hereinafter provided and entrusted it with the management and control of the temple, temple land and properties appertaining thereto.
3:2	The Committee shall consist of Chairman and eight members nominated by the State Government, all of whom shall be Indians and of whom four shall be Buddhists and four shall be Hindus, including the Mahant;
	Provided that if the Mahant is a minor or of unsound mind or refuses to serve on the Committee, another Hindu member shall be nominated in his place.
3:3	The District Magistrate of Gaya shall be the ex-officio Chairman of the Committee.
3:4	Provided that the State Government shall nominate a Hindu as a Chairman of the Committee for the period during which the District Magistrate of Gaya is non-Hindu.
3:4	The State Government shall nominate a person from among the members to act as Secretary of the Committee.
5.	Term of office of Members
5:1	The term of office of the members of the Committee shall be three years :

Provided that the State Government, if they are satisfied that the Committee is guilty of gross mismanagement, dissolve the Committee and constitute another Committee or assume direct control of the temple, temple land and the properties appertaining thereto.

- 5.2 Where a member of the Committee dies, resigns, refuses to serve on the Committee, absents himself from six consecutive meetings of the Committee, without the leave of the Committee, or ceases to reside in India, or becomes incapable of working, the State Government may nominate a person to fill the vacancy.
8. Limitations on Committee's Power to alienate Property :
 - 8.1 No movable property of a non-perishable nature appertaining to the temple shall be transferred without previous sanction of the Committee, and if the value of the property is more than one thousand rupees, without the previous approval of the State Government.
 - 8.2 No immovable property appertaining to the temple shall be leased for more than three years or mortgaged, sold or otherwise alienated except with the previous sanction of the Committee and the State Government.
9. Limitation of borrowing power
The Committee shall have no power to borrow money from any person except with the previous sanction of the State Government.
10. Duties of Committee
- 10.1(d) The proper performance of worship at the Temple and pindadana (offering of pindas) on the temple land;
11. Right of access and worship
- 11.1 Notwithstanding any thing contained in this Act or in the rules framed thereunder, Hindus and Buddhists of every sect shall have access to the Temple and the Temple land for the purpose of worship and pindadana.
12. Decision on dispute between Hindus and Buddhists.

Notwithstanding any thing contained in any enactment for the time being in force, if there be any dispute between Hindus and Buddhists regarding the manner of using the temple or the temple land, the decision of the State Government shall be final.

13. Committee to have no jurisdiction over properties of Saivite monastery
Notwithstanding anything contained in this Act, or in the rules made thereunder, the Committee shall have no jurisdiction over the movable or immovable property of the Saivite Monastery of Bodh Gaya.
14. Audit of Account
The State Government shall every year appoint an auditor to audit the accounts of the funds of the Committee and fix his remuneration which shall be paid from the said funds. The auditor shall submit the report to the Committee and send a copy to the State Government which may issue directions thereon, as it may deem fit, and the Committee shall carry out such directions.
16. Act to override Act 20 of 1863 etc.
This Act shall have effect notwithstanding any thing to the contrary contained in the Religious Endowments Act 1863, or in any decree, custom or usage.
17. Power of the Committee to make bye-laws
- 17.1 With the previous sanction of the State Government the Committee may from time to time, make bye-laws to carry out the purposes of this Act.
18. Power of Government to make rules
The State Government may make rules to carry out the purposes of this Act.

Bye laws of the "Bodh Gaya Temple Management Committee".

Government of Bihar

Political Department (General Branch)

Notification

Patna, the 26th February, 1957

Meetings : 4 The agenda for the meeting shall be prepared by the Chairman.

13 The Chairman may issue special invitation to persons who are not members of the Committee to attend a meeting...

19 The Chairman, or the Secretary, in consultation with the Chairman shall convene the meetings of the Committee.

Financial Provision

32 All money and articles received by or on behalf of the Committee, the Chairman or any other person authorised in writing by him, shall issue printed receipts.

34 Subject to the control of the Chairman, the Secretary shall be incharge of the funds of the Committee.

35 In giving out contracts, the lowest tender shall ordinarily be accepted:

Provided that the Chairman will have the right to give a contract to a person whose tender is not the lowest for reasons to be recorded in writing by him.

Power and duties of office bearers

41 (ii) The Chairman may appoint, suspend or dismiss any employee of the Committee whose salary is less than Rs. 50/- a month. Provided that all such appointments, suspensions and dismissals must be reported with reasons therefor information at the first meeting of the Committee held after the order of appointment, suspension or dismissal has been passed.

(iii) The Chairman may, pending an inquiry, suspend any employee of the Committee drawing a salary of Rs. 50/- a month or more for misconduct, in compliance, neglect of duty

or any other sufficient cause.

(v) The Chairman may impose a fine... on any employee.. for misconduct, neglect of duty or any other sufficient cause.

(vii) The Chairman shall call upon the employee concerned to explain his conduct and consider the explanation, if any, submitted by the employee, before he passes an order imposing fine.

42 The general superintendence and control of the establishment maintained by the Committee shall vest in and be exercised by the Chairman.

43. The Chairman shall be in general control of the funds of the Committee and shall enter into contract or execute leases or other documents and pass bills for payments on behalf of the Committee.

We, the Indian Buddhists, understand and interpret the given sections of the "Bodh Gaya Temple Act 1949" and Bye-laws of Bodh Gaya Management Committee as follows :

Understanding and Interpretation of given sections of Bodh Gaya Temple Act 1949.

Section :

1:1

This section gives a Title of the Act, which reads as :
"Bodh Gaya Temple Act 1949"

It is common understanding that "Temple" is a place of worship for Hindus. As like Church is place of worship for Christians, Mosque is a place of worship for Muslims and Gurudwara is a place of worship for Sikhs.

It is also well known and well recognized all over the world that Bodh Gaya is a holiest place for Buddhists where Siddhartha Gautama attained His Enlightenment. And therefore, the place is known as "Bodh Gaya Mahabodhi Maha Vihara" constructed by Buddhist Emperor Asoka in 250 BC. Bodh and Bodhi are the words used for Enlightenment and Bodhi means Enlightenment and nothing else.

In this situation when the word "Temple" is used prominently in the title of the Act itself, means that, Act recognizes and

indicates that it is place of worship for Hindus and therefore belongs to Hindus.

2(c) : In this section the terms 'Mahant the presiding priest of Saivite Monastery' are used. These terms indicate that, Siva is a Hindu deity and Mahant is the presiding priest of that deity. Therefore, this section of the Act, strengthens the impression that Bodh Gaya is a place of Siva a Hindu deity and hence it belongs to Hindus.

3 (1) This section clearly indicates that State Government is the owner of the place and therefore, in their authority as a owner, State Government will appoint a Committee entrusted with management and control of the place "Bodh Gaya Temple"

3(2) This section, if read in conjunction with section 3(3) provides absolute majority and therefore a dominant position to Hindus in the Committee and having a permanent place to Mahant or his representative in the Committee.

Therefore, this section confirms that, 'Bodh Gaya Temple' is a place of worship for Hindus and belongs to Hindus having access to Buddhists for worship.

Therefore, symbolic representation is provided to Buddhists on the Committee by State Government nomination, without consulting the Buddhist fraternity and without specifying any qualifications for the nomination of Buddhists on the Committee.

3(3) : This section makes a provision for having D.M. Bodh Gaya (must be a Hindu also) or if not Hindu then his nominee a Hindu will be ex-office Chairman of the Committee.

This section establishes the following;

- Absolute majority of Hindus in the Committee;

- If read with subsequent sections and rules, having Hindu a Ex-Officio Chairman, absolute control of the place is ensured in the hands of a Hindu.

- By appointing Hindu D.M. or his Hindu nominee, in case DM is non-Hindu as a Chairman, State Government confirms their

ownership of the place through the Chairman (a Hindu DM) and keeps absolute control of the place with the State Government.

3(4) This section gives authority to State Government to nominate a Secretary of the Committee of their choice. It means,

The Chairperson of the Committee must be a Hindu and if we have a glance of the following list of Secretaries then we shall see that Secretary will also be a Hindu.

1.	Sri Raj Kishore Pd. Singh	May 1953 to 1955	2 years.
2.	Sri R. N. P. Singh	May 1955 to 1984	19 years
3.	Sri Dwarka Sandroni	1984 to 1995	11 years.
4.	Sri Rana Pratap Singh	1995 to 1998	3 years.
5.	Bhadant Pradyashael	1998 to 2001	3 years.
6.	Sri Ravi Bhusan	13.7.2001 to 13.8.2001	1 month
7.	Sri Kali Charan Singh yadav	14.8.2001	continued.

From 1953 to Feb. 2007 in 54 years.

7 Secretaries are appointed.

Out of which only one was Buddhist.

Out of 54 years his duration was for three years only.

Rest of 51 years Secretaries were Hindus.

- The Secretary appointed by State Government barring an exception will also be a Hindu.

- It means the Hindus will have absolute majority in the Committee having both the key positions occupied by Hindus.

- Therefore, the Committee and Temple will be controlled exclusively by Hindus.

5 (1) This section empowers State Government to dissolve a Committee and constitute another Committee or assume direct control of Temple.

It means, indirectly the State Government exercises their full control on the Temple through the Committee having

absolute majority of Hindus and a Chairman and Secretary as Hindus.

In case State Government is not pleased with the functioning of the Committee then State Government by dissolving the Committee is empowered to assume a direct control of the "Temple";

Therefore, this section categorically establishes that State Government is an absolute owner of the Temple and properties.

- 5(2) This section empowers State Government to nominate a member on the Committee if there is a vacancy by given reasons. It indicates that State Government is in absolute control in the matter of nominating members on the Committee.

8 (1) and (2)

These sections say that,

Movable and immovable properties cannot be transferred by the Committee without prior approval of State Government. It establishes that the State Government is ultimate owner and controller of the 'Temple' and properties.

- 9 This section prohibits the Committee from borrowing without previous sanction of State Government. It also establishes that State Government is a ultimate owner and controlling authority.

- 10 (1) (d) This section ensures that Committee takes special care for proper performance of Puja at the Temple and pindadana. Putting together Puja, Temple and pindadana all indicate that Temple is a Hindu Temple where the puja is performed and pindadana is offered.

- 11 (1) This section acknowledges that Hindus will have a preference to have access to temple for the purpose of worship and pindadana. The assumption behind this is that 'Temple' is a Hindu Temple. The section also provides access to Buddhists for worship but preference is given to Hindus.

- 12 Dispute, between Hindus and Buddhists...

Again Hindus come first and the decision of the State Government will be final, which means;

Hindus are preferred and State Government as an ultimate owner will decide.

- 13 Committee shall have no jurisdiction over the movable and immovable properties of Saivite monastery of Both Gaya, Shiv, Saivite, Monastery, if club together indicate that Hindus are preferred, privileged, favoured community. Therefore the properties of Saivite monastery are excluded from the jurisdiction of the Committee though the Committee is having Hindus in majority and Hindu as a Chairman.

- 14 Appointment of the auditor...

State Government is the final authority to appoint the auditors which again establishes that State Government is the ultimate owner of the 'Temple' and properties.

- 16 By incorporating this section, this Act, has overriding effects on "Religious Endowments Act 1863". It means for the protection of the interests of Hindus, this section is incorporated in this Act, for making the "Religious Endowment Act 1863" ineffective.

- 17 For making bye-laws Committee must seek a prior sanction from State Government, It means;

The State Government is an ultimate authority to give sanction to bye-laws.

- 18 Power of State Government to make rules.

Again the State Government is the ultimate authority to make the rules.

By sanctioning the bye-laws and by making rules State Government has ensured that ultimate control of the 'Temple' remains with State Government.

Regarding bye-laws the understanding and interpretation of Indian Buddhists are;

- Item 4. Chairman will prepare an Agenda of Committee meetings.

13 Chairman may issue special invitation to persons...

19 Chairman shall convene the meetings of the Committee...

32 Chairman to issue printed receipts for all money or articles received...

34 Chairman will have a control on the funds...

38 Chairman will have right to give contracts to a person whose tender is not the lowest...

41 (1) and (2) Chairman will appoint, suspend or dismiss any employee....

42 General superintendence and control shall vest in and exercised by Chairman.

Above listed items indicate that chairman is an all powerful person, a Hindu, a State Government official, having ex-office position, not responsible to Committee but to State Government only.

It also establishes that State Government is the ultimate owner of the 'Temple' and State Government exercises their control and authority through D.M. a ex-officio Chairman and necessarily be a Hindu.

In brief, we, the Indian Buddhists, can say that,

The Bodh Gaya Temple Act 1949, establishes that,

Both Gaya Temple is a Hindu Temple, owned and controlled by State Government and managed by a Committee having decisive majority of Hindus and having a provision for access to Buddhists for worship.

The above points are enough to prove that the 1949 Act needs to be repealed.

Some more reasons for repealing 'The Bodh Gaya Temple Act 1949'.

1. UNESCO documents read the following:

"Mahabodhi Temple is claimed as a property of State Government of Bihar."

• The "Bodh Gaya Temple Act 1949" categorically establishes that "Bodh Gaya Temple" is a property of State Government of Bihar.

• Preamble of the Constitution of India says that;

"We The People of India having solemnly resolved to constitute India into a (Soverign, Socialist, Secular, Democratic, Republic) and to secure to all its citizens..."

According to the above statement State Government of Bihar is secular State Government.

• Hon'ble Supreme Court in their verdicts observe that;

"A law which takes away the right of administration all together from the religious denomination and vests it in any other secular authority, would amount to violation of the right which is guaranteed by Article 26 (d) of the Constitution."

(Saifuddin Saheb Sardar Syedna Taher V. State of Bombay)

AIR 1962 SC 853 (869-74) : 1962 Supp (2) SCR 496 and other judgements)

On the above mentioned grounds, as it is established that secular State Government of Bihar is a owner of Temple And owning a religious entity by a secular State Government is against the Constitutional mandate. Hence, it is pleaded that the Act of 1949 which grants and confirms the ownership of State Government on the Temple, be repealed.

2. Constitutional Provisions :

The Preamble - Liberty of thought, expression, belief, faith and worship.

Article 25 : Right to freedom of Religion.

Freedom of conscience and free profession, practice and propogation of religion.

1) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propogate religion.

Article 26 Freedom to manage religious affairs :

Subject to public order, morality and health, every religious denomination or any section thereof shall have rights.

(a) To establish and maintain institutions for religious and charitable purpose;

(b) To manage its own affairs in the matters of religion;

(c) To own and acquire movable and immovable property; and

(d) to administer such properties in accordance with law.

"The Bodh Gaya Temple Act 1949" is not in conformity with the above provisions of the Constitution of India and violates the above mentioned provisions. Therefore, We, the Indian Buddhists, plead that it should be repealed.

Again the Bodh Gaya Temple Act 1949, was enacted in the year 1949. And Governor's assent published in the Bihar Gazette on 6th July 1949.

Whereas our Constitution was adopted and enacted by the Constituent Assembly and given to ourselves on 26th Nov. 1949, and the Constitution came into force on 26th Jan. 1950.

In such a situation Article 13 of the Constitution says :

Part III : Fundamental Rights : Article 13

Laws inconsistent with or in derogation of the fundamental rights :

- (1) All laws in force in the territory of India immediately before the commencement of this Constitution; in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency be void.
- (2) The state shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention be void.
- (3) In this Article, unless the context otherwise requires :

(a) 'law' includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law.

(b) 'laws in force' includes laws passed or made by a Legislature or other competent authority in the territory of India before commencement of this Constitution and not previously repealed notwithstanding that any such law or part thereof may not be then in operation either at all or in particular areas.

Therefore, as "The Bodh Gaya Temple Act" was enacted before the adoption and enactment of our Constitution and therefore before the Constitution came into force, and As "The Bodh Gaya Temple Act 1949" is against the letter and spirit of our constitution;

We, the Indian Buddhists, plead that it should be repealed

• Human Rights and other declarations :

Universal Declaration of Human Rights, 1948.

Article 18 : "Everyone has the right to freedom of thought, conscience and

religion, this right includes freedom to change his religion or belief, and freedom either along or in community with other and in public or private, to manifest his religion or belief in teaching practice, worship and observances.

• International Covenant on Civil and Political Rights, 1966.

Article 18.1 Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

Article 27: In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in the community with other members of their group to enjoy their own culture, to profess and practice their own religion, or to use their own language.

International Convention on the Elimination of all forms of Racial Discrimination, 1966.

Article 5 :

In compliance with the fundamental obligations laid down in Article 2 of this Convention, State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before law, notably in the enjoyment of the following right"

(d) (vii) The right to freedom of thought conscience and religion.

Indian Buddhists realised that "The Bodh Gaya Temple Act", 1949 is against the letter and spirit of fundamental rights and guarantees granted by Human Rights Declaration and the Covenant and the Convention. Therefore, we demand that the Act of 1949 be repealed.

The continuous struggle of His Holiness Bhadant Arya Nagarjuna Shurei Sasai since 1991 for repealing "The Bodh Gaya Temple Act, 1949".

- Since 1991 under the leadership of His Holiness Bhadant Arya Nagarjuna Shurei Sasai, Buddhists are struggling and adopting various strategies to convince the State Government of Bihar to repeal the 1949 Act;

- In the year 1991, his Holiness organised a "Dhamma Yatra" from Chaitya Bhoorni, Mumbai to Bodh Gaya.
- On 14th oct. 1992, thousands of Buddhists held a rally at the Boat Club Lawns demanding the liberation of Mahabodhi Maha Vihara.
- On 19 Oct. 1992 a huge protest march of Buddhists was organised in Patna demanding the liberation of Mahabodhi Maha Vihar.
- To highlight the issue of Mahabodhi Maha Vihara, a two day international Buddhist Conference was organised in Patna on 13th and 14th March 1993 in which Buddhist monks from Japan, Thailand, Mianmar, China, Srianka and USA had participated.
- On 7th June 1994 His Holiness, along with more than thousand Bhikkus and about two and half lakh Buddhists from all over the country, organised huge peace morchha in Bodhagaya.
- On May 24, 1994, defying prohibitory orders promulgated by the local administration, over 15000 Bhikkus took out a massive procession. They also sat on dharna beside the sanctum sanctorum of Mahabodhi Maha Vihara.
- Since 25-02-1997 His Holiness along with thousands of Bhikkus and followers of Buddhists organised indefinite dharana at Jantar Mantar, New Delhi. This Dharna was continued for 18 months. During the Dharna, His Holiness was on hunger strike for 21 days. The then Hon'ble Home Minister, Govt. of India, Sri Indrajit Gupta, took the cognizance of this protest dharna and wrote a letter to then Hon'ble Chief Minister of Bihar for looking into the matter.
- Since 1991, every year His Holiness organises a huge demonstration in Bodh Gaya on the occasion Buddha Purnima.
- After His Holiness's appointment as a member of National commission for Minorities, he changed his strategies and started lobbying with His Excellency the President of India, Hon'ble Prime Minister of India, His Excellency the Governor of Bihar, Hon'ble Chief Minister of Bihar and the other dignitaries. Till to date struggle is continued.

The Indian Buddhists, are continuously struggling since 1991 under the able

leadership of His Holiness Bhadant Arya Nagarjuna Shurei Sasai for the liberation of a Mahabodhi Maha Vihara from the ownership and control of State Government of Bihar and from the dominance of Hindus. For the redressal of this injustice, right initiative will be repealing "The Bodh Gaya Temple Act, 1949".

Hence we, the Indian Buddhists, demand that

"The Bodh Gaya Temple Act : 1949" be repealed.

Hon'ble Supreme Court's verdicts in favour of repealing

"The Bodh Gaya Temple Act, 1949".

1. "The religious denomination is entitled to own, acquire and administer the property, for the purposes of which it was dedicated but only in accordance with law. This means that the State can regulate the administration of Trust properties by means of law validly enacted, but here again, it is the religious denomination itself which has given the right to administer its property in accordance with any law which the State may validly imposed. A law which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right which is guaranteed by Article 26 (d) of the Constitution. In short, the administration of the property must remain with the religious institution, though it may be regulated by law. Regulation by State again, cannot interfere with things which are essentially religious"

(Saifuddin Sahab Sardar Syedna Taher V. State of Bombay)

AIR 1962 SC 853 (869-74) 1962 Supp. (2) SCR 496

Comm. HREV. Lakshminidra Thiratha Swamiar (1954)

SCR 1005 (1029, 1035-36) : AIR 1954 SC 282

Ratilal Panachand Gandhi V. State of Bombay (1954) SC 1055

(1069) : AIR 1954 SC 388;

Varu Digya Darshan Rajendra Ramdassji V. State of AP.

AIR 1970 SC 181 : (1969) 1 SCC 844.

2. Though the State is entitled to regulate the administration of the property of a religious endowment, it cannot altogether take away the right of the trustees of that endowment or vest it in any authority which does not belong to that denomination"

(State of Rajasthan V. Sajjanlal Panawat, AIR 1975 SC 706)

(Paras 33, 37) : 1974 1 SCC 500)

The first Verdicts says that;

A law which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right guaranteed by Article 26 (d) of the Constitution.

The Bodh Gaya Temple Act, 1949" takes away the right of administration altogether from Buddhists community and vests it in a Committee dominant by Hindus along with a secular authority, the State Government of Bihar. Hence, it is a violation of a right of Buddhist community guaranteed by Article 26 (d) of the Constitution.

Therefore, The Bodh Gaya Temple Act 1949 be repealed.

Second verdict says that,

"The state cannot altogether take away the right of trustees of that endowment or vest it in any authority which does not belong to that denomination."

The Bodh Gaya Temple Act, 1949, takes away the right of the Buddhists of administration of properties of Maha Vihara and vest it in a Committee dominated by Hindus, and Hindus do not belong to Buddhist denomination. Therefore, the Bodh Gaya Temple Act, 1949, contradicts the above quoted judgment of Honble Supreme Court, Therefore the Act of 1949 be repealed.

Statutory recommendation of National Commission for Minorities to repeal "The Bodh Gaya Temple Act, 1949".

The matter was also discussed as an agenda item in 10th formal meeting of the Commission held on 30-3-2005. The Commission observed that the Buddhists always remain in minority in the Management Committee of Bodh Gaya Temple. The Commission, therefore, unanimously resolved that; "The provisions of the Bodh Gaya Temple Act 1949 are not in harmony with the Fundamental Rights enshrined in Article 26 of the Constitution guaranteeing the right of freedom to every religious denomination to manage their respective religious affairs. Appropriate legal measures should be taken to ensure that all the members of the Committee entrusted with the management and control of Bodh Gaya Temple including the Mahabodhi Maha Vihara in the State of Bihar are Buddhists. For this purpose the Bodh Gaya Temple Act 1949 should either be amended or repealed and appropriate legislation be enacted by the Union Government or by the Government of Bihar in order that management of Bodh Gaya Temple is vested exclusively with the Buddhists in keeping with the letter and spirit of Article 26 of the Constitution.

The Commission communicated the resolution to the Union Government and the State Government as a statutory recommendation. The resolution categorically highlights that;

- The provisions of the "Bodh Gaya Temple Act 1949" are not in harmony with the fundamental rights enshrined in Article 26 of the Constitution.
- Therefore, the Bodh Gaya Temple Act 1949 should either be amended or repealed; and
- Appropriate legislation be enacted either by the Union Government or by the Government of Bihar.

Therefore, In the light of the above statutory recommendation of NCM we, the Indian Buddhists, appeal for repealing the Bodh Gaya Temple Act 1949.

Brief for meeting of Chairman, NCM with Honble Governor of Bihar and Chief Minister, Bihar on 19th Jan. 2005, regarding vesting of management and control of Bodh Gaya Temple exclusively with the Buddhist community.

Item No. 6: Immediate action needed either to amend the 1949 Act or to replace it with a suitable legislation.

Probably nowhere else in the world, management of sacred place of one religion is under the control of followers of another religion. For the last 57 years, this Constitutional right of Buddhist community to manage the affairs of Bodh Gaya Temple exclusively by them is being violated. The National Commission for Minorities urges Government of Bihar to take immediate action either to amend the 1949 Act or repeal it and introduce a suitable legislation so that the rightful claim of Buddhists community for more than 5 decades to get exclusive control to manage the affairs of the Bodh Gaya Temple is accepted without delay.

This Note for Chairman NCM, highlights that;

- Management of a sacred place of Buddhist religion is under the control of Hindus, the followers of another religion.
- For the last 57 years the right of Buddhist community is violated by denying them the right to manage the affairs of Maha Vihara.
- Immediate action is needed to either amend the 1949 Act or repeal it and introduce a suitable legislation to restore the right of Buddhists to manage the affairs of Maha Vihara.

In this perspective, we, the Buddhists of India, demand that, The Bodhi Gaya Temple Act be repealed.

"The Bodhi Gaya Temple Act, 1949" is a fraudulent Act inflicting grave injustice on the Buddhist community.

• The UNESCO documents say that;

- The Mahabodhi Temple is one of the four holy sites related to the life of Lord Buddha.
- The Mahabodhi Temple is a Buddhist Temple in Bodhi Gaya.
- In approximately 250 BC, about 250 years after the Buddha attained Enlightenment, Buddhist Emperor Ashoka visited Bodhi Gaya with the intention of establishing a monastery and shrine. As a part of the Temple he built, the diamond throne (called the Vajrasana) attempting to mark the exact spot of the Buddha's Enlightenment, was established. Ashoka is considered the founder of the Mahabodhi Temple.

In the case filed by Bhadant Annagarika Dharmapala Hon'ble District Court also observed that :

"The temple was continuously and regularly been used as a Buddhist place of worship by Buddhists pilgrims. No form of Hindu worship had been carried on inside the Mahabodhi temple and there is nothing to show that any such worship (Hindu worship) had been carried on for many centuries.

Justice Mc-Pherson of Calcutta High Court observed that,

"It is mentioned that the Mahabodhi Temple which is very ancient and very sacred to the Buddhists, was a Buddhist Temple. Although it has been in the possession of Hindu Mahant, it has never been converted into Hindu Temple in the sense that Hindu idols have been enshrined or orthodox Hindu worship carried on there and the Buddhist pilgrims have had free access and liberty to worship in it."

These passages reveal the following

- Mahabodhi Temple is related to the life of Buddha.
- Mahabodhi Temple is a Buddhist Temple.
- Mahabodhi Temple is constructed by a Buddhist Emperor Ashoka in 250 BC.
- Mahabodhi Temple is very ancient and sacred to the Buddhists and

is a Buddhist Temple.

- It has been in the possession of Hindu Mahant.
- It has been never converted into Hindu Temple.
- Buddhists pilgrims have had free access and liberty to worship.

It means;

- Mahabodhi Temple had nothing to do with Hindu religion.
- It was never related to any Hindu deity.
- It was constructed by Buddhist Emperor Ashoka.
- Though it was in the possession of Hindu Mahant, it had never been converted into Hindu Temple.

But The Bodhi Gaya Temple Act 1949

- Accepts and provides legal sanction to the existence of Saivite monastery.
- Accepts 'Mahant' as a presiding priest of that Saivite monastery.
- Makes special provision for pindadana.
- Excludes the property of Saivite monastery from the jurisdiction of the management committee.
- Makes provision for absolute majority of Hindus in the Management Committee.
- Appoint a Hindu as a Chairperson of the Committee having absolute power and control.

It means that fraudulently this Act imposes the Hindu dominance on Buddhists. This is blatant violation of fundamental right of Buddhist needs serious consideration.

We, the Indian Buddhists, perceive that the only remedy to remove this injustice is.

Repealing the Bodhi Gaya Temple Act, 1949 on the above mentioned grounds; Finally, We, the Indian Buddhists, strongly demand that The Bodhi Gaya Temple Act 1949 be repealed.

PART - IV

Parliament can and should enact a

"Bodhi Gaya Mahabodhi Maha Vihar Act..."

PART - IV

Parliament can and should enact a;

"Bodh Gaya Mahabodhi Maha Vihara Act..."

- * The Study, analysis and review of the preceding Parts reveal that;
 - The Bodh Gaya Mahabodhi Maha Vihara is one of the four holy sites related to the life of the Lord Buddha the Enlightened.
 - The Bodh Gaya Mahabodhi Maha Vihara is a place where the Lord Buddha attained His Enlightenment.
 - The Bodh Gaya Mahabodhi Maha Vihara is a holy place revered by entire humankind.
 - The Bodh Gaya Mahabodhi Maha Vihara was built and established by Buddhist Emperor Asoka the great in 250 BC on the exact spot where Lord Buddha attained Enlightenment.
 - The Bodh Gaya Mahabodhi Maha Vihara is built, established and belongs exclusively to Buddhists of India.
- * Existing "The Bodh Gaya Temple Act, 1949" needs to be repealed.
- Because :
 - The 1949 Act does not recognize the Bodh Gaya Mahabodhi Maha Vihara as a holy place belongs to Buddhists. On the contrary by using the term 'Temple' in the title of the Act and subsequent provisions incorporated in the Act establish that it is Hindu Temple belongs to Hindus.
 - The 1949 Act, categorically, but in an implicit way, declares that Bodh Gaya Mahabodhi Maha Vihara is owned by a secular State Government of Bihar.
 - The 1949 Act denies Buddhists the Right to Freedom of thought, conscience and religion" as guaranteed by Universal Declaration of Human Rights, 1948.
 - The 1949 Act denies Buddhists the "Right to freedom of thought, conscience and religion" as guaranteed by International Covenant on Civil and Political Rights 1966.
 - The 1949 Act discriminates against the Buddhists and therefore denies them "the Right to Freedom of thought, consciences and religion" as guaranteed by International Convention on the Elimination of all forms of Racial

Discrimination 1966.

- The 1949 Act denies Buddhists "Liberty of thought, expression, belief, faith and worship" enshrined in the Preamble of our Constitution, hence it is against the letter and spirit of Preamble of our Constitution.
- The 1949 Act denies Buddhists "Right to Freedom of Religion" guaranteed by Article 25 of our Constitution.
- The 1949 Act denies Buddhists "Freedom to manage their religious affairs" as guaranteed by Article 26 (a) (b) (c) and (d) of our Constitution.
- The 1949 Act bestows ownership of Mahabodhi Maha Vihara to secular State Government of Bihar, which is against the letter and spirit of Secular Constitution.
- The 1949 Act takes away the right of administration of Bodh Gaya Mahabodhi Maha Vihara from the Buddhists and vests it in a secular authority, the State Government of Bihar which is contrary to the verdicts of Hon'ble Supreme Court delivered in many cases.
- By enacting 1949 Act the State does not regulate the administration of the property of Mahabodhi Maha Vihar which belongs to Buddhists, but it takes away the Right of Buddhists to administer the properties of Mahabodhi Maha Vihara and vest it in Hindus. Therefore the Act of 1949 is contrary to the verdict of Hon'ble Supreme Court delivered in many cases.

Part III : Fundamental Rights : Article 13

Laws inconsistent with or in derogation of the fundamental rights :

- (1) All laws in force in the territory of India immediately before the commencement of this Constitution; in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency be void.
- (2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention be void.
- (3) In this Article, unless the context otherwise requires :
 - (a) 'law' includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law.
 - (b) 'laws in force' includes laws passed or made by a Legislature or other competent authority in the territory of India before commencement of this

Constitution and not previously repealed notwithstanding that any such law or part thereof may not be then in operation either at all or in particular areas.

Therefore, as "The Bodh Gaya Temple Act" was enacted before the adoption and enactment of our Constitution and therefore before the Constitution came into force, and As "The Bodh Gaya Temple Act 1949" is against the letter and spirit of our constitution;

We, the Indian Buddhists, plead that it should be repealed

The Bodh Gaya Temple Act 1949 is;

Enacted immediately before the Commencement of the Constitution.

By not vesting the right to manage the affairs of Bodh Gaya Mahabodhi Maha Vihara exclusively with Buddhists, violates the fundamental right of Buddhists guaranteed under Article 26 of the Constitution, hence it is inconsistent with the provisions of Part III of the Constitution.

- 'Law in force' made by a legislature of Bihar State and not previously repealed.

Therefore, As per Article 13 (1) and (3) (b) the Bodh Gaya Temple Act is void and not previously repealed, needs to be repealed with immediate effect.

- Therefore; to correct all the wrongs mentioned above, it is needed that 'the Bodh Gaya Temple Act 1949' be repealed.

* **Why State Government of Bihar cannot and will not repeal;**

The Bodh Gaya Temple Act, 1949"

The continuous struggle of His Holiness Bhadant Arya Nagarjuna Shurei Sasai since 1991 for repealing 'The Bodh Gaya Temple Act, 1949'.

- Since 1991 under the leadership of His Holiness Bhadant Arya Nagarjuna Shurei Sasai, Buddhists are struggling and adopting various strategies to convince the State Government of Bihar to repeal the 1949 Act;
- In the year 1991, His Holiness organised a "Dhamma Yatra" from Chaitya Bhoorni, Mumbai to Bodh Gaya.
- On 14th oct. 1992, thousands of Buddhists held a rally at the Boat Club Lawns demanding the liberation of Mahabodhi Maha Vihara.

- On 19 Oct. 1992 a huge protest march of Buddhists was organised in Patna demanding the liberation of Mahabodhi Maha Vihara.

- To highlight the issue of Mahabodhi Maha Vihara, a two day international Buddhist Conference was organised in Patna on 13th and 14th March 1993 in which Buddhist monks from Japan, Thailand, Myanmar, China, Sri Lanka and USA had participated.

- On 7th June 1994 His Holiness, along with more than thousand Bhikkus and about two and half lakh Buddhists from all over the country, organised huge peace morcha in Bodhagaya.

- On May 24, 1994, defying prohibitory orders promulgated by the local administration, over 15000 Bhikkus took out a massive procession. They also sat on dharna beside the sanctum sanctorum of Mahabodhi Maha Vihara.

- Since 25-02-1997 His Holiness along with thousands of Bhikkus and followers of Buddha and his Dhamma organised indefinite dharana at Jantar Mantar, New Delhi. This Dharna was continued for 18 months. During the Dharna, His Holiness was on hunger strike for 21 days. The then Hon'ble Home Minister, Govt. of India, Sri Indrajit Gupta, took the cognizance of this protest dharna and wrote a letter to then Hon'ble Chief Minister of Bihar for looking into the matter.

- Since 1991, every year His Holiness organises a huge demonstration in Bodh Gaya on the occasion Buddha Purnima.

- After His Holiness's appointment as a member of National Commission for Minorities, he changed his strategies and started lobbying with His Excellency the President of India, Hon'ble Prime Minister of India, His excellency the Governor of Bihar, Hon'ble Chief Minister of Bihar and the other dignitaries.

- Till to date struggle is continued.

But it did not yield any positive response from the State Government of Bihar.

- On 3rd oct. 1997, the then Hon'ble Home Minister, Sri Indrajit Gupta wrote a letter to Ms. Rabri Devi, Hon'ble Chief Minister of Bihar. The content of which were;

".... The Bodh Gaya Mahabodhi Maha Vihara All India Action Committee, have been on indefinite dharana at Jantar Mantar, New Delhi since 25.2.1997.

The representatives of the Buddhists met me and concerned officers of my Ministry several times. Copies of various representations submitted by Buddhists were also sent by my Ministry to the Govt. of Bihar for appropriate action.

..... I am confident that your personal intervention and direction in the matter, would go a long way in ensuring smooth and efficient functioning of Bodha Gaya Temple authorities.

With regards.

Yous Sincerely
(Indrajit Gupta)

The intervention of the then Hon'ble Home Minister, Government of India also did not yield any result.

Intervention by Hon'ble Prime Minister of India, Dr. Manmohan Singh, through National Commission for Minorities.

Hon'ble Prime Minister's office had written a letter on 19-03-2005 to the Chairman of NCM. The contents were;

I am directed to submit the following to the Commission :

(a) A representation has been received from Sri Bhadant Arya Nagarjuna Sureai Sasai, member, National Commission for Minorities.

(b) It has been decided to refer the above mentioned representation to the Commission for examination and recommendation.

(c) The commission is accordingly required to examine the issue raised in the representation, and apprise this office of the Commission's, recommendation.

(Davinder PS Sandhu)
Director

- In the meeting of National Commission for Minorities held on 30-3-2005 the issue was discussed and unanimously resolved that;

"The provisions of the Bodh Gaya Temple Act, 1949 are not in harmony, with the fundamental rights enshrined in Article 26 of the Constitution guaranteeing the Right to freedom to every religious denomination to manage their respective religious affairs." Appropriate legal measures should be taken to ensure that all the members of the committee entrusted with the management and control Bodh Gaya

Temple including the Mahabodhi Maha Vihara in the State of Bihar are Buddhists. For this purpose, Bodh Gaya Temple Act 1949 should either be amended or repealed and appropriate legislation be enacted either by the Union Government or by the Government of Bihar in order the management of Bodh Gaya Temple is vested exclusively with the Buddhists in keeping the letter and spirit of Article 26 of the Constitution."

The Commission communicated the resolution to Union Government and State Government of Bihar as a Statutory Recommendation. But this intervention by Hon'ble Prime Minister and the NCM also proved to be futile and did not yield any result.

- Additional Intervention of National Commission for Minorities.

Ref. Brief of the meeting of Chairman, NCM with Hon'ble Governor of Bihar and chief Minister of Bihar on 19th Jan. 2005, regarding vesting of Management and control of Bodh Gaya Temple exclusively with the Buddhist community.

Item No. 5:-

On several occasions during last 10 years, the National Commission for Minorities had made recommendations to Union Government repeatedly for enactment of appropriate legislation for vesting the management of Bodh Gaya Temple exclusively with the Buddhists. The recommendation was communicated to Union Home Secretary in Feb. 1996 and it also appeared in the Commission's Annual Report of 1997-98. Since September 2003, S. Tarlochan Singh, Chairman NCM has been writing letters to Chief Minister of Bihar in this regard. In December 2003, he visited Patna and discussed the matter with the Chief Minister.

Item No. 6 : Immediate action needed either to amend the 1949 Act or to replace it with a suitable legislation.

Probably nowhere in the world, management of sacred place of one religion is under the control of followers of another religion. For the last 57 years, this Constitutional right of the Buddhist community to manage the affairs of Bodh Gaya Temple exclusively by them is being violated. The National Commission for Minorities urges Government of Bihar to take immediate action to either amend the 1949 Act or repeal it and introduce a suitable legislation so that the rightful claim of

Buddhist community for more than 5 decades to get exclusive control to manage the affairs of Bodh Gaya Temple is accepted without any further delay.

To these intervention there was no positive and constructive response from the State Government of Bihar except one letter from the then Hon'ble Chief Minister of Bihar, Ms. Rabri Devi of 22.12.2003.

The relevant parts of the letter are;

उल्लेखनीय है कि बोध गया मन्दिर अधिनियम 1949 की धारा 15 की उपधारा 2 के अनुसार बोधगया मन्दिर परामर्शदातृ पर्वद के बहुमत के रूप में बुद्धिष्ठो को रखने का प्रावधान है. उक्त अधिनियम के प्रावधान के अनुसार बोधगया मन्दिर परामर्शदातृ पर्वद का गठन बुद्धिष्ठ सदस्यों का बहुमत रखते हुए किया जा रहा है. अतः बुद्धिष्ठों का यह कहना की बोधगया प्रबंधन पर्वद में बहुमत हिन्दुओंका है, तथ्योंसे परे है.

बोधगया मंदिर का प्रबन्धन पूर्णतः बौद्धों के हाथ में सौंपने हेतु पूर्व में प्राप्त अभ्यावेदनोपर विचार होता रहा है. राज्य सरकारका हरीशा यह अभिमत रहा है की बोधगया मन्दिर के प्रबन्धन की व्यवस्था में कोई मौलिक परिवर्तन करना उपयुक्त नहीं होगा. इससे कोई भी परिवर्तन करने से विवाद खड़ा हो सकता है जिससे गंभीर साम्प्रदायिक समस्या उत्पन्न हो सकती है. अतः बोधगया मन्दिर अधिनियम 1949 को वापस लेने या इसके स्थानपर बोधगया महाबोधी महाविहार विधेयक को पारित करने का राज्य सरकार का कोई प्रस्ताव नहीं. तथापि राज्य सरकार बोधगया मन्दिर के प्रबंधन को बेहतर बनाने हेतु किसी भी सकासत्मक सुझाव का स्वागत करेगी और उसपर विचार करेगी.

भवदीय

(राबड़ी देवी)

In this letter the then Hon'ble Chief Minister of State Government of Bihar categorically declines :

- To amend or modify the Bodh Gaya Temple Act 1949, and/or
- To enact Bodh Gaya Mahabodhi Maha Vihara Act in its place for vesting management and control with the Buddhists exclusively.

In the perspective of the above mentioned facts and findings we, the Indian Buddhists, arrived at the conclusion that, State Government of Bihar will never enact a new legislation by repealing existing "The Bodh Gaya Temple Act 1949" for entrusting the management and control of Mahabodhi Maha Vihara exclusively to Indian Buddhists.

In our opinion, the reasons for this are;

- State Government of Bihar has no regard and respect for 'Human Rights' guaranteed by Universal Declaration of Human Rights 1948 to Buddhists in India.

State Government of Bihar has no regard and respect of 'Fundamental Rights' guaranteed by the Constitution enshrined in its Preamble; and Articles 25 and 26.

State Government of Bihar is immune to the peaceful protests and dharams organised within the constitutional limits by Buddhist masses and does not have any human concern for the feelings of the Buddhist.

State Government of Bihar has no regard and respect for international concerns about the violation of fundamental rights of Buddhists.

State Government of Bihar did not feel like paying attention to the request of the then Hon'ble Home Minister of Government of India, Sri Indrajit Gupta.

State Government of Bihar has neglected the intervention of Hon'ble Prime Minister Dr. Manmohan Singh in this regard.

State Government of Bihar has also neglected the recommendations and appeals of National Commission for Minorities in this regard.

State Government of Bihar has developed vested interests in Mahabodhi Maha Vihara as a owner and does not want to sacrifice the right to ownership granted and guaranteed by the Act of 1949.

State Government of Bihar had extended a reason that communal tensions will be generated between Hindus and Buddhists if the 1949 Act be repealed and this can become a good escape way for State Government of Bihar for all times to come for not repealing a 1949 Act and enacting a new legislation in this regard.

Therefore, In the given situation after struggling for more than 15 years with constitutional means to restore the fundamental right of Buddhists to manage and control the affairs of Bodh Gaya Mahabodhi Maha Vihara exclusively, we the Buddhists of India, arrived at the conclusion that,

It is better to avoid serious conflict with State Government of Bihar, and plead with the Parliament, the supreme law making body of India, to enact a suitable legislation for restoring the fundamental right of Indian Buddhists to manage and control the affairs of Mahabodhi Maha Vihara, exclusively.

* Why a humble submission to the Parliament to enact a suitable legislation to entrust the management of control of Bodh Gaya Maha Bodhi Maha Vihar exclusively to Indian Buddhist and restore their fundamental right?

As per the Constitution

- Parliament is a supreme law making body and a
- A guarantee of
- * Right to liberty of thought, expression, belief and faith enshrined in the Preamble.
- * Right to freedom of Religion guaranteed in Article 25
- * Freedom to manage religious affairs. guaranteed in Article 26.

As a Signatory;

- To Universal Declaration of Human Rights, 1948. Therefore; ultimate protector of "Right to freedom of thought, conscience and religion" guaranteed under Article 18.
- To International Covenant of Civil and Political Right. Therefore; ultimate protector of "Right to freedom of thought, conscience and religion" guaranteed by this Covenant.
- To International Convention on the Elimination of all forms of racial discrimination.

Therefore, ultimate protector against discrimination on the basis of religion.

It is an established fact that,

- Buddhists are discriminated against and are denied the fundamental Right to manage and control the Mahabodhi Maha Vihara exclusively by them since last 57 years.
- The existing law "The Bodh Gaya Temple Act 1949" is against the letter and spirit of the Constitution.
- State Government of Bihar is de-facto and de-jure owner of "Bodh Gaya Temple" (Mahabodhi Maha Vihara) through our Constitution

category declares that State Government of Bihar is a secular Government. And Hon'ble Supreme Court in their judgment observed that secular State cannot own, a religious place. It means owning a religious place and property by secular State is a violation of the Constitutional provisions.

In such a situation, as,

- Parliament is the supreme law making body.
- Parliament is a guardian and protector of fundamental rights guaranteed by the Constitution.
- Parliament is a custodian and protector of Human Rights and;
- Parliament is specifically responsible. For the protection of rights guaranteed to religious minorities by the Constitution.
- Parliament is obliged to protect the minorities against any form of discrimination.
- And Buddhists are a religious minority in this Nation.

Therefore, Indian Buddhists appeal to the Parliament,

To enact a suitable legislation

- To restore their fundamental Rights, guaranteed by the Constitution.
- To restore their Human Rights, guaranteed by the Declaration.
- To protect them against discrimination as guaranteed by International Covenant and Convention.

For vesting the right to own, manage and control the affairs of Bodh Gaya Mahabodhi Maha Vihara exclusively by Indian Buddhists.

- We, the Indian Buddhists, having rock solid faith and trust in the Parliament are also aware that Parliament can enact a suitable legislation to vest the ownership, management and control of Bodh Gaya Maha Body Maha Vihara exclusively to Indian Buddhists because;
- National Minority Commission in their statutory recommendation incorporated in a resolution passed in their meeting held on 30-3-2005.

recommended that;

"The provisions of "Bodh Gaya Temple Act, 1949" are not in harmony with the fundamental Right enshrined in Article 26 of the Constitution guaranteeing the right to freedom to every religious denomination to manage their own affairs. Appropriate legal measures should be taken to ensure that all members of the Committee entrusted with the management and control of Bodh Gaya Temple including the Mahabodhi Maha Vihara in the State of Bihar are Buddhists. For this purpose Bodh Gaya Temple Act, 1949 should either be amended or repealed and appropriate legislation be enacted either by The Union Government or by the Government of Bihar in order that, the management of "Bodh Gaya Temple" is vested exclusively with the Buddhists in keeping with the letter and spirit of Article 26, of the Constitution."

The above resolution and statutory recommendation of National Commission for Minorities categorially underscores that;

"The Bodh Gaya Temple Act 1949", is against the letter and spirit of Article 26 of the Constitution.

Therefore, "The Bodh Gaya Temple, Act" needs to be amended or repealed..

For this purpose either Union Government should enact a suitable legislation or

- State Government of Bihar should enact a Suitable legislation

Therefore, it is clear that Union Government (Parliament) can enact a suitable legislation.

Lok Sabha

Unstarred question No. 383

To be answered on 29th Feb. 1996

Handing over of Bodh Gaya Temple to Buddhists.

383 Shri R. Surender Reddy :

Will the Minister of welfare be pleased to state;

- (a) Whether it is a fact that the Bodh Gaya Temple under its present management is in a very bad shape;
- (b) If so, the details of the present management of the temple along with the reasons for its bad state of affairs.
- (c) Whether the National Commission for Minorities has taken a serious view of the bad state of affairs of Bodh Gaya Temple and represented to Union Government to enact a law whereby

the control and management of the Temple is handed over to Buddhists.

- (d) If so, the details thereof, and
- (e) the measures taken by Union Government in this regard.

Answer

Minister of Welfare Shri Sitaram Kesri

(a) & (b) Report has been sought from the State Government in this regard.

(c) & (d) The National Commission for Minorities has recommended enactment of suitable and appropriate legislation to vest the management of Bodh Gaya Temple exclusively in the Buddhist community. The Commission has also suggested to the local administration various steps for keeping the temple clean, maintaining unhindered access of pilgrims to the holy place, proper accounting of offerings and drawing up a plan for long term development of the area and the construction of guest houses.

(e) The report has been received on 28th February and is being examined.

It is clear from the given text that;

- The question about Bodh Gaya Maha Bodhi Maha Vihara was raised on the floor of Lok Sabha which indicates that the Parliament is authorised to intervene in this matter.
- It is mentioned in the question about the recommendation of NCM about urging Union Government to enact a suitable law...

While giving the answer to these questions Hon'ble Minister for Social Welfare, also accepted without any comment that the National Commission for Minorities has recommended for enactment of suitable and appropriate legislation by the Union Government.

The clear understanding in this matter is, it comes under the jurisdiction of the Parliament to enact suitable and appropriate legislation to vest management of Bodh Gaya Mahabodhi Maha Vihara exclusively to the Buddhist community.

Matter raised in Rajyasabha by Sardar Tarlochan Singh, Member of Parliament regarding vesting of management and control of Bodh Gaya Temple exclusively to the Buddhist community.

The relevant paragraphs of the speech establishing that the Parliament can enact a

suitable and appropriate legislation for vesting the management and control of Bodh Gaya Mahabodhi Maha Vihara exclusively to the Buddhist community are;

Sir, on several occasions during the last 10 years, the National Commission for Minorities had made recommendations to the Union Government repeatedly for enactment of appropriate legislation for vesting the management of Bodh Gaya Temple exclusively with the Buddhists. The recommendation was communicated to Union Home Secretary in February 1996 and it also appeared in our Annual Report of 1997-98.

10 Mr. Chairman Sir, I would urge the Government should quick enough to solve this problem and take immediate action to either amend the 1949 Act or repeal it so that the rightful claim of Buddhist community for more than 5 decades to get exclusive control to manage the affairs of the Bodh Gaya Temple is accepted without any further delay. I think by this we will be paying our regards to Dr. B. R. Ambedkar the founding father of the Constitution who adopted Buddhism.

From the above paragraphs quoted from the speech of Hon'ble Member of the Parliament, it reveals that;

• Hon'ble Member of Parliament graciously admits that Buddhist community have a rightful claim to get exclusive control to manage the affairs of Bodh Gaya Mahabodhi Maha Vihara.

• Hon'ble member of Parliament is pained to say that, the Buddhist community is deprived of this rightful claim.

• From the floor of Rajya Sabha, Hon'ble Member of Parliament requested the Union Government (Parliament) for enactment of appropriate legislation for vesting the management of Bodh Gaya Mahabodhi Maha Vihara exclusively with the Buddhists.

• Therefore, it is crystal clear that the Parliament can enact a suitable and appropriate legislation for restoring the claim of Buddhists for managing the affairs of Maha Bodhi Maha Vihara exclusively.

• From the documents of National Commission for Minorities. "Agenda item No. 6 (Participation of Buddhists in the management of Bodh Gaya Temple) of the 10th formal Meeting to be held on 30-3-2005, Additional points for discussion.

Point No. 6 - Power of Parliament :

governor's assent to the Bodh Gaya Temple Act 1949', was given on 19.6.1949 i.e. before the Constitution was adopted by the Constituent Assembly on 26.11.1949. Perhaps the 1949 Act was subsequently ratified by Bihar Legislature for adoption. However, no confirmation to this is available in NCM. As per entry 32 of the State List (List III) the State Governments are empowered to enact laws on regulation of religious societies/association. Entry 35 of the State List empowers a State Government to enact laws on 'works, land and buildings vested in or in possession of the State', Notwithstanding the ratification of Bodh Gaya Temple Act 1949 by Bihar Legislature under entry 32 or 35 of State List, the Parliament can make law under Article 249 of the Constitution with respect of any matter enumerated in the State List. However, this requires a Rajya Sabha resolution supported by not less than 2/3rd of the members present and votings.

1. Alternatively, under entry 67 of List 1 (Union List) the Union Government may declare Bodh Gaya Temple as an ancient monument of National importance. If this is done the Parliament may enact a law for management of Bodh Gaya Temple exclusively by the Buddhists by repealing the "Bodh Gaya Temple Act 1949".

on the above quoted document of National Commission for Minorities, reveals that;

Parliament can make law under Article 249 of the Constitution with respect to any matter enumerated in the State List. It means even if the Bodh Gaya Mahabodhi Maha Vihar might be in the State List, Parliament can make a law, for vesting the management of Mahabodhi Maha Vihara exclusively to Buddhist by repealing "the Bodh Gaya Temple Act, 1949."

However, this requires a Rajya Sabha resolution supported by not less than 2/3rd of the members present and voting.

The alternative is Union Government has to declare Bodh Gaya Mahabodhi Maha Vihara, as an ancient monument of national importance under Entry 67 of List 1 (Union List).

This is possible because UNESCO has already incorporated Mahabodhi Maha Vihara in World Heritage List, and declared that the Maha Vihara was constructed by Buddhist Emperor Asoka in the year 250 BC. If Union Government declares Bodh Gaya Mahabodhi Maha Vihara as an ancient monument under Entry 67 of list 1 (Union List) then Parliament can enact a law vesting management and control of Bodh Gaya Mahabodhi Maha Vihara exclusively with the Buddhists.

In this perspective we, the Buddhists of India, appeal to the Parliament for enactment of suitable and appropriate legislation for vesting the management and control of Bodh Gaya Mahabodhi Maha Vihara exclusively with the Buddhists.

The Constitution of India :

Article 249 : Power of Parliament to legislate with respect to a matter in the State List in the National Interest;

(1) Notwithstanding anything in the foregoing provisions of this chapter, if the Rajya Sabha has declared, by resolution supported by not less than two third of the members present and voting, that it is necessary or expedient in national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

The alternative is declaring Bodh Gaya Mahabodhi Maha Vihara as an ancient monument under Entry 67 of list 1 (Union List) and enact a suitable legislation.

List 1 (Union List) : Entry 67 :

Ancient and historical monuments and records, and archaeological sites and remains (declared by or under the law of the Parliament) to be of national importance.

For Summaries;

Article 249 of the Constitution empowers the Parliament to enact a suitable legislation; the alternative is Union Government by declaring Bodh Gaya Mahabodhi Maha Vihara as an ancient monument of National Importance under Entry 67 of list 1 (Union List) Parliament can enact a suitable legislation for vesting the management and control of Bodh Gaya Mahabodhi Maha Vihara exclusively to the Buddhists.

Therefore, we, the Indian Buddhists, appeal to the Parliament to make a suitable legislation to that effect and oblige.

...

PART - V

*The Proposed Bill
"The Bodhi Gaya Mahabodhi Maha Vihara Act..."*

PART - V

The Bodh Gaya Mahabodhi Maha Vihara Act.... **(A draft Bill)**

Proposed by His Holiness, Bhadant Arya Nagarjuna Surei Sasai -

Preamble of the Act :

The Parliament of India hereby recognizes, adores and appreciates that;

- * Both Gaya Mahabodhi Maha Vihara is a place where Lord Buddha the Enlightened attained Enlightenment;
- * Both Gaya Mahabodhi Maha Vihara is a holiest place not only for Indian Buddhists but for the Buddhist all over the world also;
- * Both Gaya Mahabodhi Maha Vihara is a holy place revered by the humankind;
- * Both Gaya Mahabodhi Maha Vihara is established and built by a Buddhist Emperor Asoka in 250 BC;
- * Bodh Gaya Mahabodhi Maha Vihara is established and built by the Buddhists;
- * Buddhists have a 'Right to freedom of Religion' guaranteed by Article 25 of the Constitution;
- * Buddhists have a 'Right to freedom to manage their religious affairs' guaranteed by Article 26 of the Constitution;
- * Therefore, Buddhists have an exclusive right to manage the affairs of Bodh Gaya Mahabodhi Maha Vihara guaranteed by Article 26 of the Constitution.

Hence this Act is enacted;

An Act to make provisions for better management of Bodh Gaya Mahabodhi Maha Vihara and the properties appertaining thereto.

Whereas it is expedient to make provisions for the better management of the Bodh Gaya Mahabodhi Maha Vihara and properties appertaining thereto;

It is hereby enacted as follows :

Short Title and Commencement

Section 1 : (i) This Act may be called "The Bodh Gaya Mahabodhi Maha Vihara Act...."

(ii) It shall come into force at once.

Definition :

2 : In this Act, unless there is any thing repugnant in the subject or context.

(a) "The Mahabodhi Maha Vihara" means great Vihara built by the site of Mahabodhi Tree near the village Both Gaya in the district of Gaya and includes Mahabodhi Tree and Vajrasana;

(b) The Mahabodhi Maha Vihara land means the land in which the Mahabodhi Maha Vihara and its precincts stand and shall cover such area or shall lie within such boundaries as the State Government (Central Government) may, by notification direct;

(c) "Council of Custodians" means the Council constituted under section 3 of this Act.

(d) "Board of Governors" means the Board constituted under section 4 of this Act.

Constitution of "Council of Custodians"

3(1) As soon as may, be after the commencement of this Act, Union Government shall constitute a "Council of Custodians" to function as a parent body as hereinafter provided and entrust it with the given authorities, functions and responsibilities in subsequent sections.

(2) The 'Council' shall consists of a Chairperson and four members nominated by;

- Nominee of His Excellency the Vice - President of India. 1
- Nominee of Ministry of culture, Government of India. 1
- Nominee of Ministry for Minorities, Government of India. 1
- Nominee of State Government of Bihar. 1
- Nominee of National Commission for Minorities, Government of India. 1

Total 5

All of whom shall be Indians.

(3) Nominee of His Excellency the Vice-President of India will be ex-officio Chairperson of the Council.

(4) The term of office of Chairperson and members of the Council shall be three years.

(5) Where either a Chairperson or a member of the Council dies, resigns, refuses to serve on the Council or ceases to reside in India or becomes incapable of working, then in that case, the position of the said member will lie vacant, and the vacancy will be filled in by the nominating agency to whom the member concerned was representing on the Council.

(6) Any act done by the Council shall not be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the 'Council'.

Office and Meetings of the Council :

4 (1) The Council shall maintain its office at Both Gaya.

(2) At the meetings of the Council the Chairperson or in his absence one of the members to be elected at the meeting, shall preside;

(3) No business shall be transacted at any meeting unless at least three members (including Chairperson) are present.

Appointment of Board of Governors :

5 (1) For the better management of affairs of Both Gaya Mahabodhi Maha Vihara a 'Board of Governors' will be constituted.

(2) Council is authorised and will be responsible for the appointment of Board of Governors."

(3) Qualifications for Governors are specified in the subsequent sections of this Act.

(4) Council will exercise their powers and execute their functions as are given in the subsequent sections of the Act.

Constitution of "Board of Governors"

6(1) As soon as, may be after the commencement of this Act and after the constitution of "Council of Custodians" the Council shall constitute "Board of Governors" as hereinafter provided and entrust it with the management and control of the

'Mahabodhi Maha Vihara' and the the Mahabodhi Maha Vihara land and the properties appertaining thereto.

- (2) The 'Board of Governors' shall consist of Chairperson and eight Governors appointed by the Council, all of whom shall be Indians and of whom not less than three shall be Bhikkus (Buddhist monks) and rest shall be Upasakas (followers of Buddhism)
- (3) The "Board of Governors" shall elect from among themselves one Governor as Chairperson of the Board.
- (4) The 'Board of Governors' shall elect from among themselves one Governor as a Secretary of the Board.

Incorporation of 'Board of Governors'

- 7 The "Board of Governors" shall be a body corporate by the name of "Board of Governors of Both Gaya Mahabodhi Mahavihara" having perpetual succession, and a common seal, with powers to acquire and hold property, both movable and immovable and to contract, and shall be the said name sue or be sued.

The "Board of Governors" is authorised to appoint a fulltime "Chief Executive Officer" as an employee of the Board for executing the decisions of the Board and to fix his/her remuneration.

Qualification for being appointed as Governor

8 (1) Qualifications for Bhikkus.

- (a) Bhikku to be properly ordained in Bhikku Sangh.
- (b) Bhikku to be a senior Bhikku in the order of Sangh in service of Lord Buddha, the Enlightened, the Sangha and the masses for not less than 10 years as a Bhikku.
- (c) Bhikku to be associated with a prominent Vihara or an Institution or an organisation dedicated for the cause of propogating teachings of Lord Buddha the Enlightened and for the wellbeing of the masses.
- (d) Bhikku to be willing to dedicate his intellect, energy, other capacities and potentials for the cause of Both Gaya Mahabodhi Maha Vihara.

8 (2) Qualifications for Upasakas (followers of Buddhism)

- (a) Upasaka to be a Buddhist either by birth or by conversion.
- (b) Upasaka to be a senior citizen having long standing association with an important Vihara, or Institution or organisation working for propogating teachings of Lord Buddha the Enlightened and for the wellbeing of the masses.
- (c) Upasaka to be wellknown for his contribution in the field of Dhamma.
- (d) Upasaka to be willing to devote his/her intellect and energy for the cause of Bodha Gaya Mahabodhi Mahavihara.

Terms of Office of the Governors

- 9 (1) The term of office of Governors of the Board shall be three years. Provided that the "Council of Custodians", if they are satisfied that the Board is guilty of gross mismanagement, dissolve the Board and constitute another Board within six months from the date of dissolution of the Board.

During the period when the Board will not be in existence, the Council may appoint a Receiver to function as a Board till another Board is constituted.

- (2) Where a Governor of the Board dies, resigns, refuses to serve on the Board, absents himself/herself from six consecutive meetings of the Board or ceases to reside in India, or becomes incapable of working on the Board, the Council may declare that post of the concerned Governor lies vacant and that the Council may appoint a person to fill the vacancy.

- (3) Any act done by the Board shall not be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of a Board.

Office and meetings of the Board

- 10 (1) The Board shall maintain its office at Both Gaya.
- (2) At the meetings of the Board the Chairperson or in the absence one of the members to be elected at the meeting shall preside.
- (3) No business shall be transacted at any meeting unless at least five Governors including Chairperson are present.

Limitations on Board's Power to alienate property

- 11 (1) No movable property of a non-perishable nature appertaining to the Mahabodhi Maha Vihara shall be transferred without the previous sanction of the Board, and, if the value of the property is more than Rs. 50,000/- without the previous approval of the Council.
- (2) No immovable property appertaining to the Maha Vihara shall be leased for more than three years or mortgaged or sold or otherwise alienated except with the previous sanction of the Board and the Council.

Limitation on Borrowing Power

- 12 The Board shall have no power to borrow money from any sources except with the previous sanction of the council.

Duties and Responsibilities of the Board

- 13 Subject to the provisions of this Act or of any rules made thereunder, it shall be the duty of the Board;
 - (1) To arrange for :
 - (a) the upkeep, repair and maintenance of Mahabodhi Maha Vihara.
 - (b) the improvement of Mahabodhi Maha Vihara land.
 - (c) the welfare and safety of the pilgrims; and
 - (d) the proper performance of worship at the Mahabodhi Maha Vihara and on the Mahabodhi Maha Vihara land.
 - (2) to prevent the desecration of the Maha Vihara or any part thereof, or of any image therein;
 - (3) to make arrangements for the receipts and disposal of the offerings made in the Mahabodhi Maha Vihara and for the safe custody of the statements of accounts and other documents relating to the Mahabodhi Maha Vihara or the Mahabodhi Maha Vihara land and for the preservation of the property appertaining to the Mahabodhi Maha Vihara.
 - (4) to make arrangement for custody, deposit and investment of funds in their hands; and

Right of Access and Worship

- (5) to make provisions for the payment of suitable emoluments to its salaried staff.

- 14 (1) Notwithstanding anything contained in this Act, or in the rules framed thereunder, Buddhists of every sect shall have access to the Mahabodhi Maha Vihara and to Mahabodhi Maha Vihara land for the purpose of worship as per the Buddhists' traditions.

Provided nothing in this Act shall entitle any person to bring in any alcoholic liquor within the Mahabodhi Maha Vihara or on the Mahabodhi Maha Vihara land or to enter the Mahabodhi Maha Vihara with shoes on.

- (2) If any person contravenes the provisions of the subsection (1) the person shall be punishable with fine not exceeding ... Rs. 100/-

Audit of Accounts

- 15 The Board shall every year appoint an auditor to audit the accounts of the funds of the Board and fix his remuneration which shall be paid from the said funds. The auditor shall submit his report to the Board and send a copy of it to the council, which may issue such directions thereon, as they may deem fit, and the Board shall carry out such directions.

Power of the Board to Make bye-laws

- 16 (1) With the previous sanction of the Council, the Board may from time to time make bye-laws to carry out the purposes of this Act.
 - (2) In particular and without prejudice to the generality of the foregoing powers, such bye-laws may provide for :-
 - (a) The division of duties among the Chairperson, the Board of Governors, and the Secretary of the Board;
 - (b) The manner in which their decisions may be ascertained otherwise than at the meetings;
 - (c) The procedure and conduct of business at meetings of the Board;

- (d) The delegation of powers of the Board to individual Governors;
- (e) Qualifications of Chief Executive Officer and his/her functions.
- (f) The books and accounts to be kept at the office of the Board;
- (g) The custody and investment of the funds of the Board;
- (h) The time and venue of meetings;
- (i) The manner in which notice of their meetings shall be given;
- (j) The preservation of order and the conduct of proceedings at meetings and the powers which the Chairperson may exercise for the purpose of enforcing their decisions.
- (k) The manner in which the proceedings of their meetings shall be recorded; and
- (l) The persons by whom receipts may be granted for moneys paid to the Board;
- (3) All the bye-laws, after they have confirmed by the Council shall thereafter have the force of law.

Power of the Council to make rules

- 16 The Council may make rules to carryout the purposes of this Act.

...

PART - VI

Enclosers

List of Enclosures

1. UNESCO Document incorporating Bodh Gaya Mahabodhi Maha Vihara in World Heritage List.
2. UNESCO Document about "current status and management" of Bodh Gaya Mahabodhi Maha Vihara.
3. Lok Sabha Question about...
4. Letter of Sri Indrajeet Gupta, the then Home Minister, Govt. of India.
5. Letter of Mrs. Rabri Devi, the then Chief Minister of Bihar.
6. Letter of Hon'ble Prime Minister.
7. Letter from Prime Minister's Office.
8. Letter from Hon'ble Prime Minister.
9. Representations from People of Japan.
10. Speech in Rajyasabha.
11. Chairman N.C.M. - Brief for the meeting.

Mahabodhi Temple Complex at Bodhi Gaya

India

State of Bihar, Eastern India
N24 41 43 E84 59 38
ref: 1056rev



Date of Inscription: 2002

Criteria: (i)(ii)(iii)(iv)(vi)

Brief Description

The Mahabodhi Temple Complex is one of the four holy sites related to the life of the Lord Buddha, and particularly to the attainment of Enlightenment. The first temple was built by Emperor Asoka in the 3rd century B.C., and the present temple dates from the 5th or 6th centuries. It is one of the earliest Buddhist temples built entirely in brick, still standing in India, from the late Gupta period.

Justification for Inscription

Criterion (i): The grand 50m high Mahabodhi Temple of the 5th-6th centuries is of immense importance, being one of the earliest temple constructions existing in the Indian sub-continent. It is one of the few representations of the architectural genius of the Indian people in constructing fully developed brick temples in that era. Criterion (ii) The Mahabodhi Temple, one of the few surviving examples of early brick structures in India, has had significant influence in its development of architecture over the centuries. Criterion (iii) The site of the Mahabodhi Temple provides exceptional records for the events associated with the life of Buddha and subsequent worship, particularly since Emperor Asoka built the first temple, the balustrades, and the memorial column. Criterion (iv) The present Temple is one of the earliest and most imposing structures built entirely in brick from the late Gupta period. The sculpted stone balustrades are an outstanding early example of sculptural reliefs in stone. Criterion (vi) The Mahabodhi Temple Complex in Bodhi Gaya has direct association with the life of the Lord Buddha, being the place where He attained the supreme and perfect insight.

Official Documents

- Advisory Body Evaluation
 - 2002 - Decision 26COM 23.15 *2002 - Decision 26COM 23.16 *2003 - Decision 27COM 7B.46 *2004 - Decision 28COM 15B.57 *2005 - Decision 29COM 7B.52 *2006 - Decision 30COM 7B.64 *Report of the 26th Session of the Committee

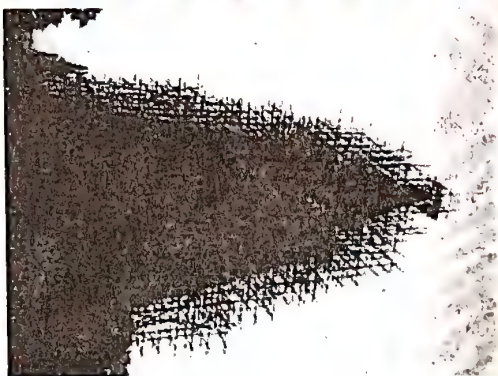
News

- Jun.26, 2002
 - World Heritage Committee Inscribes 9 New Sites on the World Heritage List

Links

- WHTour : visit this site in panoramaphies (360 degree imaging)
- Mahabodhi Mahavihara Buddhagaya Temple - Home Page (Bodhgaya Temple Management Committee)

Current status and management



The temple undergoing repairs. January, 2006.

Mahabodhi Temple is claimed as property of state government of Bihar, part of India. Under the terms of the Bodhi Gaya Temple Act of 1949, the state government makes itself responsible for the protection, management, and monitoring of temple and its properties. The Act also has provisions for a Temple Management Committee, along with an advisory Board, which consists of the governor of Bihar state and twenty to twenty-five other members, half of them from foreign Buddhist countries.

LOK SABHA
UNSTARRED QUESTION NO. 383
TO BE ANSWERED ON 29 FEBRUARY 1966
HANDING OVER OF BODHIGAYA TEMPLE TO BUDDHISTS.

383. SHRI R. SURENDER REDDY:

Will the Minister of Welfare be pleased to state:

- (a) Whether it is a fact that the Bodhgaya temple under its present management is in a very bad shape;
- (b) If so, the details of the present management of the temple alongwith the reasons for its bad state of affairs;
- (c) Whether the National Minorities Commission has taken a serious view of the bad state of affairs of Bodhgaya temple and represented to the Union Government to enact a law where by the control and management of the temple is handed over to Buddhists;
- (d) If so, the details thereof; and
- (e) the measures taken by the Union Government in this regard;

ANSWER

MINISTER OF WELFARE

SHRI SITARAM KISHI

(a) & (b): Report has been sought from the State Government in this regard.

(e) & (d): The National Commission for Minorities has recommended enactment of suitable and appropriate legislation to vest the management of Bodh Gaya Temple exclusively in the Buddhist Community. The Commission has also suggested to the local administration various steps for keeping the temple clean, maintaining unhindered access of pilgrims to the holy place, proper accounting of offerings and drawing up a plan for long term development of the area and construction of guest houses.

(e) The report has been received on 24th February and is being examined.

INDRAJIT GUPTA

SECRET
D.O.No.11-12013/9/96-15(DV)*

3 OCT 1991

Dear Smt. Rabri Devi,

Govt. of Bihar had enacted Bodhi Gaya Temple Act, 1969 with a view to resolving the long-standing dispute between Buddhists and Hindus relating to the management of Bodhi Gaya Temple. Buddhists have, however, been agitating for the last few years, for vesting the management of Bodhi Gaya Temple exclusively in the Buddhist community. The Bodhi Gaya Mahabodhi Vihar All India Action Committee, have been on indefinite dharna at Ashoka Marg, New Delhi since 25.2.1991.

2. The representatives of the Buddhists met me and concerned officers of my Ministry several times. Copies of various representations submitted by the Buddhists were also sent by my Ministry to the Govt. of Bihar for appropriate action.

3. As Bodhi Gaya Temple is managed under the provisions of the above mentioned Act, enacted by the Govt. of Bihar, action to redress the grievances of Buddhists relating to this Temple is to be taken by the Govt. of Bihar. I would, however, urge that the following grievances of the Buddhists may be considered:-

- (1) Section 3(4) of the above Act provides that the State Govt. shall nominate a person from among the members to act as Secretary of the Committee. The National Commission for Minorities has observed that since inception of the Act, no Buddhist member has been nominated as Secretary of the Committee. This has also been confirmed by the Govt. of Bihar.
- (ii) The Buddhists as well as the National Commission for Minorities have made certain observations relating to maintenance of the Bodhi Gaya Temple and management of the Temple etc. While the Govt. of Bihar has initiated action on some of the points, action still remains to be taken on others.

4. I would request you to ensure that the State Govt. takes effective steps to improve the working of the Management Committee, maintenance of the Bodhi Gaya Temple Complex as well as for providing proper amenities to the pilgrims. I am confident that your personal intervention and direction in the matter, would go a long way in ensuring the smooth and efficient functioning of the Bodhi Gaya Temple authorities.

With regards,

Yours sincerely,

(INDRAJIT GUPTA)

Smt. Rabri Devi,
Chief Minister of Bihar,
PATNA



CHIEF MINISTER
BIHAR



अस.प.सं.-५६१९३०६-----/मु.सं.

प्रिय श्री तटलोचन सिंह जी,

बोध गंगा मंदिर प्रकरण अधिनियम, 1949 में यदीवित संशोधन से संबंधित आपके अर्द्ध-सकार्ती पर संख्या-सी./एच./2 (6)/2003 एच.सी.ए., दिनांक-18 फिब्रवर, 2003 एवं उसके साथ प्राप्त श्री भन्ते आनन्द, राष्ट्रीय आस्था, अखिल भारतीय मुस्लिम महासंघ मुस्लिम आन्दोलन समिति के ज्ञापन के आलोक में विषय की समीक्षा करावी गई है।

उपरोक्त ज्ञापन के माध्यम से बोध गंगा मंदिर प्रकरण बौद्धों को सौंपने एवं बहुसंख्यक बोध गंगा मंदिर अधिनियम, 1949 में संशोधन करने की मांग की गयी है। ज्ञापन में यह भी मांग है कि बोध गंगा मंदिर परामर्शालय परदे में सिर्फ बुद्धिदल लोगों को सम्मिलित किया जाये।

इससे पूर्व यह कि बोध गंगा मंदिर अधिनियम, 1949 की धारा 15 की उप धारा 2 के अनुसार बोध गंगा मंदिर परामर्शालय परदे के बहुसंख्यक सदस्य के रूप में बुद्धिदलों को रखने का प्रावधान है। उक्त अधिनियम के ज्ञापन के अनुसार बोध गंगा मंदिर परामर्शालय परदे का गठन बुद्धिदल सदस्यों का बहुसंख्यक रखते हुए किया जाना रहा है। अतः बुद्धिदलों का यह स्तर कि बोध गंगा मंदिर प्रकरण परदे में बहुसंख्यक हिन्दुओं का है, तथ्यों से परे है।

बोध गंगा मंदिर का प्रकरण पूर्णतः बौद्धों के हाथ में सौंपने हेतु पूर्व में प्रायः अभ्युदयो पर विचार होता रहा है। राज्य सरकार का धरोरा यह अभिप्राय रहा है कि बोध गंगा मंदिर के प्रकरण की व्यवस्था में बौद्धों को अधिक भागीदारी करवा उपरोक्त नहीं होता। इसमें बौद्ध भी भागीदारी करने से विचार छोड़ा हो सकता है जिससे गंभीर सामाजिक समस्या उत्पन्न हो सकती है। अतः बोध गंगा मंदिर अधिनियम, 1949 को यादव सेने या इसके स्थान पर बोध गंगा महासंघ महाविहार विधेयक को पारित कराने का राज्य सरकार का कोई प्रस्ताव नहीं है। तथ्यादि राज्य सरकार बोध गंगा मंदिर के प्रकरण में... बेहतर बनने हेतु किसी भी सकारात्मक सुझाव का स्वागत करेगी और उसपर विचार करेगी।

4234/173
31/12/03

श्री तटलोचन सिंह,

अध्यक्ष, राष्ट्रीय अल्पसंख्यक आयोग,
लोक न्यायक भवन (पंचवती मंदिर),
जान मार्केट, नई दिल्ली- 110003

31/12

भवदीय,
(तबदी रसो)

139



प्रधान मंत्री

Prime Minister

New Delhi
February 22, 2005

Dear Shri Sasai,

I have received your letter of February 15, 2005 regarding the Management of Mahabodhi Mahavihar at Bodhgaya.

With regards,

Yours sincerely,


(Manmohan Singh)

Shri Bhadant Arya Nagarjuna Shurei Sasai
Member
National Commission for Minorities
Lok Nayak Bhavan (Fifth Floor)
Khan Market
New Delhi - 110003

प्रमुख मंत्रियों के कार्यालय
नई दिल्ली - 110 011
प्रमुख मंत्रियों के कार्यालय
नई दिल्ली - 110 011



No.580/31/C/37/04-ES.2

Dated: 19.3.2005

To

The Chairman
National Commission for Minorities
Lok Nayak Bhawan, 5th Floor
New Delhi.

Sir,

I am directed to submit the following to the Commission:

- (a) A representation has been received from Shri Bhadant Arya Nagarajuna Shurei Sasai, Member, National Commission for Minorities.
- (b) It has been decided to refer the above mentioned representation to the Commission for examination and recommendation.
- (c) The Commission is accordingly requested to examine the issues raised in the representation, and apprise this office of the Commission's recommendations.

Yours faithfully,

(Signature)
(Davinder PS Sandhu)
Director

Encl: as above.

35/24/3
24/3

35/24/3
24/3

(Handwritten notes)
for up to 1000
in 1000
1000
1000

NY No. 570
Date 2/7/05

प्रधान मंत्री
Prime Minister

**New Delhi
August 23, 2005**

Dear Shri Tarlochan Singh,


I have received your letter of August 19, 2005 enclosing Special Mentions by you in Rajya Sabha regarding demands of Buddhist community.

With regards,

Yours sincerely,

Mam Singh
(Mannohan Singh)

Shri Tarlochan Singh, MP
Chairman
National Commission for Minorities
Lok Nayak Bhavan (Fifth Floor)
Khan Market
New Delhi-110 003



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Representation from the People of Japan.

*The President of India
The Prime Minister of India
The Chief Minister of Bihar State*

Respected Sir,

We, the people of Japan, believe in the doctrine of different religions and we think that the doctrine of the founder of every religion should be respected. At the same time, the holy places where the founders started their teachings should be taken care of by that religion's followers. We believe in this.

As you know, Buddhagaya—the holy land of all the Buddhist people of the world—is not managed and taken care of by the Buddhist people of India. That is why we request that the Maha Bodhi Mahar Vihara should be managed and taken care of by the Buddhist people of India. We think that all the people of the world should enjoy their spiritual endeavour equally in this holy land.

Looking beyond the religious forms and doctrines, we have great faith that tolerance and equality will prevail on earth. We hope that the Government of India will consider this issue with great understanding and will give their whole-hearted support.

With great thanks,

Date The President of Doohuron

津田光昭
(Tsuda Mitsunaki)

インド共和国大統領 閣下
 インド共和国内閣総理大臣 閣下
 インド共和国ビハール州州長 閣下

日本国内にあって、私たちは異なる宗教を信仰していますが、それぞれの宗祖・教義はお互いに尊重されるべきであると考えています。同時にその宗教にかかわる聖地は、信仰するそれの人々によってのみ守られるべきであると信じています。

釈尊の聖地オタガヤが仏教徒の手によって、管理されていくことは御承知の通りであります。オタガヤが仏教徒の手によって管理・運営され、世界の人々に等しく開放されることを、私たちはそれぞれの教義を越えて強く求めるものです。

ご理解とご協力を要請します。

1994年 月

住 所	署 名
常磐市市場町乙-13	清沢 雅尊
常磐市市場町2-13	清沢 隆信
知礼市橋町神戸3-1	鈴木 磐子
阿武隈市竜巻1-7022	鳴戸 純子
安城市赤松町新屋敷151	安藤 幸子
安城市赤松町新屋敷151	安藤 大生
一色町一色中屋敷乙	雲 真生
石巻市太白区権町601-8-101	半田 久建
安城市蓮輪町本屋敷81	鈴木 和
岡崎市木柱町北屋敷12-1	木 信昭

扱い団体・扱い者
 インド民衆と共に歩む会

MATTER TO BE RAISED IN THE RAJYA SABHA BY
SARDAR TARLOCHAN SINGH, MEMBER OF
PARLIAMENT REGARDING VESTING OF THE
MANAGEMENT CONTROL OF BODH GAYA TEMPLE
EXCLUSIVELY TO THE BUDDHIST COMMUNITY

Mr. Chairman Sir, the Mahabodhi Mahavihara at Bodh Gaya town of Bihar is the most sacred place of worship for the Buddhist community not only in India but all over the world. It is the place where Prince Siddhartha Gautama attained enlightenment under a Banyan tree, described in the Buddhist scripts as Bodhidruma, after undergoing heard penance and meditation and became Bhagwan Buddha. History says that Emperor Ashoka had constructed a huge tomb here around 250 B.C and thereafter established the Mahavihara which is now known as 'Mahabodhi Mahavihara', a monument in the memory of Lord Buddha. The Vihara is visited by thousands of Buddhist pilgrims not only from India but also from Japan, Taiwan, China, Mayanma, Thailand, Sri Lanka and many other countries every year.

2. Mr. Chairman Sir, in the year 1949, the Government of Bihar enacted the Bodh Gaya Temple Act, 1949 transferring the control and management of the Bodh Gaya Temple including the Mahavihara, the temple land and the properties appertaining thereto, to a Managing Committee of four Buddhists and four Hindus with the District Magistrate of Gaya as Chairman. The Governor's assent to the Bodh Gaya Temple Act, 1949 was given on 9th June, 1949 i.e. before the Constitution of India was adopted by the Constituent Assembly on 26th November, 1949. The 1949 Act provides that District Magistrate, Gaya will be the ex-officio Chairman of the Management Committee. The Act also empowers Government of Bihar to nominate a Hindu as the Chairman of the Managing Committee during the period District Magistrate, Gaya is a non-Hindu.

3. Mr. Chairman Sir, Article 26 of our Constitution guarantees the right of freedom to every religious denomination to establish and maintain institutions for religious purposes. This Article also gives the right to every religious community to manage their own affairs in matters of religion. It is amply clear that the provisions of 1949 Act are such that the Buddhists will always be in minority in the Managing Committee. This is a gross violation of the provisions of Article 26 of the Constitution.

4. The Buddhist community has long been inviting attention of the Government of Bihar as well as the Union Government to the need for handing over the management of the Bodh Gaya Temple to the Buddhists exclusively.

5. Sir, on several occasions during the last 10 years, the National Commission for Minorities had made recommendations to the Union Government repeatedly for enactment of appropriate legislation for vesting the management of Bodh Gaya Temple exclusively with the Buddhists. The recommendation was communicated to Union Home Secretary in February, 1996 and it also appeared in our Annual Report of 1997-98.

6. Mr. Chairman Sir, shortly after I took over the charge of Chairman, National Commission for Minorities, I have been inviting attention of Chief Minister of Bihar to this issue. Since September, 2003, I have been writing letters to Chief Minister of Bihar in this regard. In December, 2003, I visited Patna and discussed the matter with the Chief Minister.

7. Sir, the National Commission for Minorities in its meeting held on 30th March, 2005 adopted a unanimous resolution that since the provisions of Bodh Gaya Temple Act, 1949 are not in harmony with the Article 26 of the Constitution, the 1949 Act should either be amended or repealed and appropriate legislation be enacted so that the management of Bodh Gaya Temple is vested exclusively with the Buddhists. In the same meeting, we also decided that the Resolution be forwarded to the Union Government as well as Government of Bihar as a statutory recommendation of the Commission. Immediately after the meeting held on 30th March 2005, we have issued a Press Note, inviting media attention to the Resolution adopted by us. The news was published in several national dailies on 3rd and 5th April, 2005. On receipt of a reference from Prime Minister's office, the Resolution was communicated to them. Secretary of the Commission invited attention of Chief Secretary, Bihar as well as Union Home Secretary to the statutory recommendation of the Commission as expressed through the Resolution adopted by us in the meeting held on 30th March, 2005.

8. Mr. Chairman Sir, on 15th April, 2005, I have written to Hon'ble Governor of Bihar as well as the Union Home Minister to the Resolution. Unfortunately, no action either for amendment or repeal of the 1949 Act has so far been taken

9. Sir, probably nowhere else in the world, management of sacred place of one religion is under the control of followers of another religion. For the last 57 years, this Constitutional right of the Buddhist community to manage

the affairs of the Bodh Gaya Temple exclusively by them is being violated. How long this situation which is grossly violative of Article 26 of the Constitution will continue? For how long the injustice to the Buddhist community of the country will continue to be done and the Union Government would remain a silent spectator?

10. Mr. Chairman Sir, I would urge that the Government should be quick enough to solve this problem and take immediate action to either amend the 1949 Act or repeal it so that the rightful claim of the Buddhist community for more than 5 decades to get exclusive control to manage the affairs the Bodh Gaya Temple is accepted without any further delay. I think, by this we will be paying our regards to Dr. B.R. Ambedkar, the founding father of our Constitution, who adopted Buddhism.

* * * * *

BRIEF FOR MEETING OF CHAIRMAN, NCM WITH HON'BLE GOVERNOR OF BIHAR AND CHIEF MINISTER, BIHAR ON 19TH JANUARY, 2005 REGARDING VESTING OF MANAGEMENT CONTROL OF BODH GAYA TEMPLE EXCLUSIVELY WITH THE BUDDHIST COMMUNITY

The Mahabodhi Mahavihara at Bodh Gaya town of Bihar is the most sacred place of worship for the Buddhist community not only in India but all over the world. It is the place where Prince Siddhartha Gautama attained enlightenment under a Banyan tree, described in the Buddhist scriptures as Bodhidharma, after undergoing heard penance and meditation and became Bhagwan Buddha. The Vihara is visited by thousands of Buddhist pilgrims not only from India but also from Japan, Taiwan, China, Myanmar, Thailand, Sri Lanka and many other countries every year.

2. Bodh Gaya Temple Act, 1949

In 1949, the Government of Bihar enacted the Bodh Gaya Temple Act, 1949 transferring the control and management of the Bodh Gaya Temple including the Mahavihara, the temple land and the properties appertaining thereto, to a Managing Committee of four Buddhists and four Hindus with the District Magistrate of Gaya as Chairman. The Governor's assent to the Bodh Gaya Temple Act, 1949 was given on 9th June, 1949 i.e. before the Constitution of India was adopted by the Constituent Assembly on 26th November, 1949. A copy of the 1949 Act is enclosed as Annexure-1. The provisions of the 1949 Act related to the composition of the Managing Committee are indicated below:-

- (i) Section 3 (2) of the Act provides that the Committee shall consist of a Chairman and 8 members nominated by the 'Provincial Government' (i.e. Government of Bihar) all of whom will be Indians and of whom 4 will be Buddhists and 4 Hindus including the 'Mahant'. Section 2 (c) of the Act provides that the 'Mahant' is the presiding priest of the Saivite Monastery at Bodh Gaya.
- (ii) As per Section 3 (2) of the Act, the total number of members in the Committee is 9, including D.M., Gaya, the Chairman. Section 3 (3) of the Act says that D.M., Gaya is the ex-officio Chairman of the Committee. However, this sub-section has a proviso, empowering Government of Bihar to nominate a Hindu as the Chairman of the Committee during the period D.M., Gaya is a non-Hindu.

3. Demands of Buddhist community

For the last several years the Buddhists have been raising the following demands:-

- (i) The management of Mahabodhi Mahavihara at Bodh Gaya should be exclusively in the hands of Buddhists. Probably, nowhere else in the world, management of the sacred place of one religion is under the control of followers of another religion. D.M. of Gaya has always been the head of the Managing Committee, if he is a Hindu. In case the D.M. is not a Hindu, the Committee is headed by a Hindu person nominated by the State Govt. As such in this 9-member Committee, 5 are Hindus and 4 are Buddhists. Therefore, the Buddhists are always a minority in the Managing Committee set up to control and manage the holiest shrine of the Buddhists. This aberration has to be removed.
- (ii) Since the 1949 Act has come into force, no Buddhist member has not been nominated as Secretary of the Committee by the State Govt.
- (iii) Since the Buddhists are in minority in the Managing Committee, they are helpless in taking action to prevent defilement to the original statues of Lord Buddha, theft of artifacts and misappropriation of donations and gifts.

4. Article 26 of Constitution of India

Article 26 of our Constitution guarantees the right of freedom to every religious denomination to establish and maintain institutions for religious purposes. This Article also gives the right to every religious community to manage their own affairs in matters of religion. It is amply clear that the provisions of 1949 Act are such that the Buddhists will always be in minority in the Managing Committee. This is a gross violation of the provisions of Article 26 of the Constitution.

5. NCM recommendations for vesting the Temple management exclusively with the Buddhists

On several occasions during the last 10 years, the National Commission for Minorities had made recommendations to the Union Government repeatedly for enactment of appropriate legislation for vesting the management of Bodh Gaya Temple exclusively with the Buddhists. The recommendation was communicated to Union Home Secretary in February, 1996 and it also appeared in the Commission's Annual Report of 1997-98

since September, 2003, S. Tarlochan Singh, Chairman, NCM has been writing letters to Chief Minister of Bihar in this regard. In December, 2003, he visited Patna and discussed the matter with the Chief Minister.

5.1 NCM in its meeting held on 30th March, 2005 adopted a unanimous Resolution that since the provisions of Bodh Gaya Temple Act, 1949 are not in harmony with the Article 26 of the Constitution, the 1949 Act should either be amended or repealed and appropriate legislation be enacted so that the management of Bodh Gaya Temple is vested exclusively with the Buddhists. In the same meeting, it was also decided that the Resolution be forwarded to the Union Government as well as Government of Bihar as a statutory recommendation of the Commission. Immediately after the meeting held on 30th March 2005, a Press Note (copy enclosed as Annexure 5.2. On 15th April, 2005, S. Tarlochan Singh, Chairman, NCM had written to Hon'ble Governor of Bihar as well as the Union Home Minister inviting their attention to the Resolution. Unfortunately, no action either for amendment or repeal of the 1949 Act has so far been taken.

6. Immediate action needed either to amend the 1949 Act or to replace it with a suitable legislation

Probably nowhere else in the world, management of sacred place of one religion is under the control of followers of another religion. For the last 57 years, this Constitutional right of the Buddhist community to manage the affairs of the Bodh Gaya Temple exclusively by them is being violated. The National Commission for Minorities urges Government of Bihar to take immediate action to either amend the 1949 Act or repeal it and introduce a suitable legislation so that the rightful claim of the Buddhist community for more than 5 decades to get exclusive control to manage the affairs the Bodh Gaya Temple is accepted without any further delay.

Appendix

A copy of the Memorandum submitted by Joint Council for Rinzaï and Obaku Zen appeal to

1. His Excellency,
The President of India.
2. Hon'ble Prime Minister of India
3. His Excellency,
The Governor of Bihar.

May 23th, 2005

8-1 Teibenouchi-cho Minamikojo
Nakagyo-ku, Kyoto JAPAN
care of Hansozo University
Office Joint Council Rinzaï and Obaku Zen

Joint Council for Rinzaï and Obaku Zen appeal

It scarcely needs to be mentioned that for followers of Buddhism throughout the world the Bihar state of your country is a sacred land of fundamental significance. This is symbolized by the great pagoda in The Bodhi Gaya Temple, the Mahabodhi Mahavihara, Diamond throne (Vajrasasana) and Holy Bodhi Tree and the region as a whole is a place where the faith of Buddhists of the world converges.

Our Rinzaï zen originally derived from your tradition, and the teaching of the Buddha, as they are promulgated by Busshin school (Zen school), can be seen to be associated with Maha Kashapa, Bodhi Dharma, Daikan Enou and Gigen Rinzaï, and the flowers of our 15 schools were opened in accordance with this inheritance. The incultured flowers of The Bodhi Gaya great pagoda awaken us, and for this reason, from long ago we have made pilgrimages to the sacred Buddhist remains of your country.

However, as is already known to you, for what can be said to be historical reasons, even to this day the maintenance of respected sites of Buddhist remains in The Bodhi Gaya and Rajgir has not been entrusted to the management of Buddhist followers. In recent years, from those returning from pilgrimages abroad, we hear that security is being managed in an inappropriate manner, and that knowing of this, as Japanese Buddhists, and as Buddhists of the world, we feel a great sadness.

Today, in your country too as you are aware Buddhism has undergone a revival October 14th 1956, under the teachings of the learned Dr. B. R. Ambedkar, father of constitutional government in the region in Nagapur Maharashtra. His successor master Japanese monk Shri Bhadant Arya Nagarjuna Shurei Sasai has come, it is said to guide 100 million followers of Buddhism, and currently occupies an important position as a minority Buddhist representative in the central government.

Master Shri Bhadant Arya Nagarjuna Shurei Sasai has for decades devoted his life to this cause, and the return of his right to govern continues to be petitioned and is widely reported in the mass-media. This has greatly moved the ordinary people of the Buddhist community.

The great majority of Japanese people are Buddhist. The thing we beg for is the formal recognition of The Bodhi Gaya region as a UNESCO heritage site, so that one of the worlds great Buddhist sacred lands may live up to its name and be managed administratively by Buddhists, safeguarding the sanctity and serenity of these sites so that pilgrims can receive truth, peace of heart and spirit from this tranquil land.

We ask for greater understanding and support regarding this sacred lands problems as soon as possible, so that The Bodhi Gaya Temple including the Mahabodhi Mahavihara will come under the stewardship of Buddhists, and it will be possible to make pilgrimages to the Buddhist remains in peace. This will make the relations of our two countries, Japan and India, even greater and be the guarantee of true friendship.

These words are offered by the 15 branches of the Rinzai and Obaku Zen in request of the efforts of your Excellency to make this a reality.

15 branches of the Rinzai and Obaku Zen school are co-signatories of this petition.

Yours respectfully

The Chairperson of the board of directors of

[Joint Council for Rinzaï and Obaku Zen]

KENSEI AOKI

青木謙整

Members of [Joint Council for Rinzaï and Obaku Zen]

KEIITSU HOSOKAWA	Secretary general Myoshin-ji branch, Rinzaï Zen school
TATSUMIYO AKAMATSU	Secretary general Obaku Zen school
GOYU SUGIMURA	Secretary general Nanzen-ji branch, Rinzaï Zen school
SHOSHUN TAKAI	Secretary general Kenccho-ji branch, Rinzaï Zen school
KENSEI AOKI	Secretary general Tofuku-ji branch, Rinzaï Zen school
SEKIUN MIURA	Secretary general Enkaku-ji branch, Rinzaï Zen school
TOUGAKU KANBA	Secretary general Daioku-ji branch, Rinzaï Zen school
GIKOU NIINO	Secretary general Hokoku-ji branch, Rinzaï Zen school
BUNRYO YAMADA	Secretary general Eigen-ji branch, Rinzaï Zen school
JYOSHO TOGA	Secretary general Myoshin-ji branch, Rinzaï Zen school
TAIZAN EGAMI	Secretary general Shokoku-ji branch, Rinzaï Zen school
SHIGYO MIZUTANI	Secretary general Kennin-ji branch, Rinzaï Zen school
JISAI ANEGAWA	Secretary general Kougaku-ji branch, Rinzaï Zen school
KOUJYU NISHIKORI	Secretary general Butsu-ji branch, Rinzaï Zen school
KOUMYO KURA	Secretary general Kokutai-ji branch, Rinzaï Zen school

May 23th, 2005

86 Fukuchi-cho Nanzen-ji
Sakyo-ku, Kyoto JAPAN
Nanzen-ji Temple

Shri. Dr. Manmohan Singh,
Hon'ble Prime Minister of India

On the 3rd of November last year, Mr. Somnath Chatterjee, chairman of the Indian house of representatives, and a number of his distinguished colleagues, traveled to Kyoto and honored us by visiting our temple, Nanzen-ji.

They were welcomed to Nanzen-ji by Mr. Sugimura, secretary general of the Nanzen-ji branch, Rinzaï zen school of buddhism. Together, they spent an agreeable moment walking in the gardens. Mr. Sugimura chose this moment of tranquility to raise the topic of the "Nanzen-ji Appeal", begging our distinguished guests to inform the Indian government and parliament of its contents. Shortly afterwards, the subject was widely reported in the Japanese media, sending ripples through the buddhist community.

At the next meeting of the executive board of the Joint Council for Rinzaï and Obaku Zen, on April 14th, the matter was openly discussed by the 15 members. This meeting resulted in the formulation of the "Joint Council for Rinzaï and Obaku Zen appeal" which accompanies this letter. All 15 members of the council are co-signatories of this humble petition. It, like the aforementioned "Nanzen-ji Appeal", calls for the Indian government to consider placing the Bodhi Gaya Temple, including the Mahabodhi Mahavihara, under the stewardship of buddhists.

I, Bumpo Nakamura, on behalf of the buddhist community of Japan, have come to India to beg the honor of an audience with your excellency, at which I might be allowed to present this appeal. We have but one request, that is to please return sacred buddhist sites to the hands of buddhists.

Recently, ecumenism has been making great progress in the world. Ecumenical

conferences have been held regularly including many in Japan. At one such meeting, attended by esteemed delegates from your country, including the ambassador, a minister and the consul general, the importance of the Bodhi Gaya to buddhists, both now and in buddhism's long history, was discussed.

However, to this day, nothing seems to have been done to remedy the current situation. When buddhist pilgrims from all over the world visit this sacred land only to find it cared for by non-buddhists, they are justifiably surprised.

Your country, Maha Bharat, which has a long history of over 5,000 years of religious philosophy and spiritual civilization, can certainly do much to further friendly relationships and dialogue between religions. I earnestly beg you to favorably consider our request concerning the situation at the Bodhi Gaya at your earliest convenience.

In conclusion, I'd like to wish continued peace and prosperity on your country and the good health of your excellency and all those you represent.

Yours sincerely,

Chief abbot Nanzen-ji branch, Rinzai Zen school BUMPO NAKAMURA

General secretary GOYU SUGIMURA

杉村五由

The chairman Nanzen-ji branch, Rinzai Zen SHOTOKU NAKAGAWA

中川昭徳

May 23th, 2005

86 Fukuchi-cho Nanzen-ji
Sakyoku, Kyoto JAPAN
Nanzen-ji Temple

Shri. Dr. Bura Singh,
Hon'ble Governor of Bihar

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General secretary

GOYO SUGIMOTO

杉村五由

The chairman Nanzen-ji branch, Rinzai Zen SHOTOKU NAKAGAWA

中川昭徳

The Honorable Shri Buta Singh
Governor of Bihar

Appeal from the Joint Council for the Rinzai and Obaku Zen Schools

For followers of Buddhism everywhere, the holiest religious site in the world is Bodhi Gaya in Bihar, India, where 2,500 years ago Shakyamuni Gautama Buddha attained supreme enlightenment on the Diamond Seat under the Bodhi Tree. For well over a thousand years this sacred spot has been marked by the Mahabodhi Mahavihar Temple.

Zen Buddhism, also known as the Buddha Mind School, traces its origins to the enlightenment experience of the Buddha, transmitted through his student Mahakashyapa and succeeding generations to Bodhidharma, Huineng Dajian, Linji Yixuan, and the other great Zen masters of China and Japan, and giving rise to the Japanese Rinzai and Obaku Zen Schools. For this reason Japanese Rinzai and Obaku monks have always held a special reverence for Bodhi Gaya and the Mahabodhi Mahavihar Temple, and have for over a century made the pilgrimage to Bihar to worship there.

We therefore regret that the care and administration of this most sacred of Buddhist holy sites has yet to be entrusted to the Buddhist community of India. In recent years, pilgrims returning from India have reported instances in which the management and security of Bodhi Gaya have not been entirely appropriate to its holy status. These reports have deeply distressed Buddhists not only in Japan but the world over.

As you know, Buddhism has undergone a great revival in India ever since Dr. Babasaheb Ambedkar, the father of the Constitution of India, embraced Buddhism in the year 1956. Dr. Ambedkar's successor, the Japanese Buddhist monk Shri Bhadant Arya Nagarjuna Shurei Sasai, now leads an estimated 100 million Indian Buddhists, and currently holds an important position as the representative of Buddhism in the Indian Government's Committee for Minorities. For many years Ven. Sasai's work for the cause

Office of the Joint Council for the Rinzai
and Obaku Zen Schools
c/o Hanazono University
8-1 Nishinokyo Tsunonouchi-cho
Nakagyo-ku, Kyoto, Japan

of returning the Mahabodhi Mahavihar to Buddhist control has attracted attention throughout the world.

The Japanese people, the majority of whom are Buddhist, sincerely hope that Bodhgaya, presently under consideration by UNESCO for designation as a World Heritage Site, will be returned as soon as possible to the Indian-Buddhist community so that its sanctity may be honored, its safety guaranteed, and its tranquility as a place of worship properly maintained.

We the undersigned, representatives of the fifteen traditions of Japanese Rinzai and Obaku Zen, respectfully request the understanding and support of the Indian Government in this most important endeavor, the success of which would be a treasured confirmation of the friendship and good will that has always existed between the peoples of India and Japan.

With respect and best wishes,

Ke'itsu Hosokawa	Secretary-General, Myoshin-ji Branch of Rinzai Zen
Tatsunyo Akamatsu	Secretary-General, Obaku Branch of Rinzai Zen
Goyu Sugimura	Secretary-General, Nanzan-ji Branch of Rinzai Zen
Shoshun Takai	Secretary-General, Kencho-ji Branch of Rinzai Zen
Kensei Aoki	Secretary-General, Tofuku-ji Branch of Rinzai Zen
Sekun Miura	Secretary-General, Engaku-ji Branch of Rinzai Zen
Togaku Kanba	Secretary-General, Daioku-ji Branch of Rinzai Zen
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Shigyo Mizutani	Secretary-General, Kennin-ji Branch of Rinzai Zen
Jisai Anegawa	Secretary-General, Kogaku-ji Branch of Rinzai Zen
Koji Nishikiori	Secretary-General, Butsu-ji Branch of Rinzai Zen
Komyo Kura	Secretary-General, Kokuta-ji Branch of Rinzai Zen

May 23th, 2005

8-1 Teubonouchi-cho Nishinokyo
Nakayoko-ku, Kyoto JAPAN
care of Hamazono University
Office Joint Council Rinzai and Obaku Zen

Shri. BUTA SINGH
Hon'ble Governor of Bihar

Joint Council for Rinzai and Obaku Zen appeal

It scarcely needs to be mentioned that for followers of Buddhism throughout the world, the Bihar state of your country is a sacred land of fundamental significance. This is symbolized by the great pagoda in The Bodhi Gaya Temple, the Mahabodhi Mahavihara, Diamond throne (Vajra asana) and Hory Bodhi Tree and the region as a whole is a place where the faith of Buddhists of the world converge.

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Today, in your country too, as you are aware Buddhism has undergone a revival. October 14th 1956, under the teachings of the learned Dr. B. R. Ambedkar, father of constitutional government in the region in Nagapur Maharashtra. His successor, master Japanese monk Shri Bhadant Arya Nagarjuna Shurei Sasai has come, it is said to guide 100 million followers of Buddhism, and currently occupies an important position as a minority Buddhist representative in the central government.

Master Shri Bhadant Arya Nagarjuna Shurei Sasai has for decades devoted his life to this cause, and the return of his right to govern continues to be petitioned and is widely reported in the mass media. This has greatly moved the ordinary people of the Buddhist community.

The great majority of Japanese people are Buddhist. The thing we beg for is the formal recognition of The Bodhi Gaya region as a UNESCO heritage site, so that one of the worlds great Buddhist sacred lands may live up to its name and be managed administratively by Buddhists, safeguarding the sanctity and serenity of these sites so that pilgrims can receive truth, peace of heart and spirit from this tranquil land.

We ask for greater understanding and support regarding this sacred land's problems as soon as possible, so that The Bodhi Gaya Temple including the Mahabodhi Mahavihara will come under the stewardship of Buddhists, and it will be possible to make pilgrimages to the Buddhist remains in peace. This will make the relations of our two countries, Japan and India, even greater and be the guarantee of true friendship.

These words are offered by the 15 branches of the Rinzai and Obaku Zen in request of the efforts of your Excellency to make this a reality.

15 branches of the Rinzai and Obaku Zen school are co-signatories of this petition.

Yours respectfully

The Chairperson of the board of directors of

Joint Council for Rinzai and Obaku Zen

KENSEI AOKI

青木謙整

Members of Joint Council for Rinzai and Obaku Zen

KEIITSU HOSOKAWA	Secretary general Myoshin-ji branch, Rinzai Zen school
TATSUMYO AKAMATSU	Secretary general Obaku Zen school
GOYU SUGIMURA	Secretary general Nanzen-ji branch, Rinzai Zen school
SHOSHUN TAKAI	Secretary general Kencho-ji branch, Rinzai Zen school
KENSEI AOKI	Secretary general Tofuku-ji branch, Rinzai Zen school
SEKIUN MIURA	Secretary general Enkaku-ji branch, Rinzai Zen school
TOUGAKU KANBA	Secretary general Daitoku-ji branch, Rinzai Zen school
GIKOU NIINO	Secretary general Hokou-ji branch, Rinzai Zen school
BUNRYO YAMADA	Secretary general Eigen-ji branch, Rinzai Zen school
JYOSHO TOGA	Secretary general Myoshin-ji branch, Rinzai Zen school
TAIZAN EGAMI	Secretary general Shokoku-ji branch, Rinzai Zen school
SHIGYO MIZUTANI	Secretary general Kennin-ji branch, Rinzai Zen school
JISAI ANEGAWA	Secretary general Kougaku-ji branch, Rinzai Zen school
KOUJYU NISHIKIORI	Secretary general Butsu-ji branch, Rinzai Zen school
KOUMYO KURA	Secretary general Kokutai-ji branch, Rinzai Zen school

「請願書」

昨年十一月三日に貴国の下院議院議長、ソムナート・チャッテルジー氏を団長とする議員団の一行が、京都を観光され、私どもの南禅寺にお見え下さいました。

杉村宗務総長がお迎えをして、庭園をご案内いたしました。その折「南禅寺アビール」というメッセージを議長はじめ議員団一行にお読み申し上げ、政府ならびに議会にお伝え下さるようお願いしました。

その後、このことがマスコミを通じて広く日本仏教界に知られるところとなり、大きな波紋を呼び起こしました。

四月十四日には、さらに南禅寺を含む、日本禅宗の双璧の一つ臨済宗・黄檗宗の十五の団体である臨黄合議所の理事会において、緊急提案がなされました。

その結果、ラダカヤ大菩提寺大塔の管理権を仏教徒の手に・・・という

「南禅寺アビール」と同じ趣旨の「臨黄アビール」に各派宗務総長が署名をいたし、私中村 文峰が日本仏教徒の代表となつて、親しく閣下にお会いして訴えるべく、ここに拝謁を願い出て、参つて居るわけでございます。

お願いしたいことは、只一点、「仏教の根本聖地を仏教徒の手に返して頂きたい」ということであります。

現在、世界では各宗教間の対話が求められ、また進められており、そうした集まりが日本でも度々、華々しく開かれ、貴国の大使、公使、総領事

बुद्धगया महाबोधी महाविहार को बौद्धों के हाथों में देने सम्बन्धी भारत सरकार को अपील

हस्ताक्षर अभियान आगे बढ़ रहा है।

स्थान पवित्र भूमि होने के कारण उसकी हमें अच्छी तरह से रखा करनी चाहिए।

महाविहार का संचालन और हर प्रकार से सुरक्षा योजना करने का अधिकार होना चाहिए।

चाहिए।

बिहार प्रदेश के मुख्यमंत्री से हम अपील करते हैं।

崇高な教えの地として、大事にされるべきものと考えます。

ないと考えます。

えんき教者にとっても、戯に残念な事象にあると言わざるを得ません。

人々に開かれた聖地として、人類の大いなる教えの地となることを強く望むものであります。

をいただきました。

附一におかれましても、私どもの要請がかなえられますようお願い添えを望むものであります。

1993年10月

ヒハール州州長閣下

（要請者）岡山県宗教同連絡会 代表 津田光昭

4)

日本基督教団、日本ナザレシ教団、神旺教団、常福寺、
不洗観音寺、

教	團	名	自	筆	署	名
黑住教	黑住教	黑住教	日笠	藤	徹	
黑住教	黑住教	黑住教	木坂	榮光利	子	
黑住教	黑住教	黑住教	後藤	子	子	
黑住教	黑住教	黑住教	落岩三重子			

इस बुद्धगया महाबोधी महाविहार के प्रश्न पर हमने पिछले साल से संपूर्ण जपान के बौद्ध लोगों से अपील की। बहुत से लोगों, संगठनों से समर्थन और प्रेरणा सहायता को भी प्राप्त कर रहे हैं। महामहिम राष्ट्रपतीजी, आदरणीय प्रधानमंत्रीजी और आदरणीय बिहार प्रदेश के मुख्यमंत्री को विनंती करते हैं हमारे जपान के बौद्ध लोगों के अपील का विचार करके आपके सरकार की सहायता और निर्णय की आशा करते हैं।

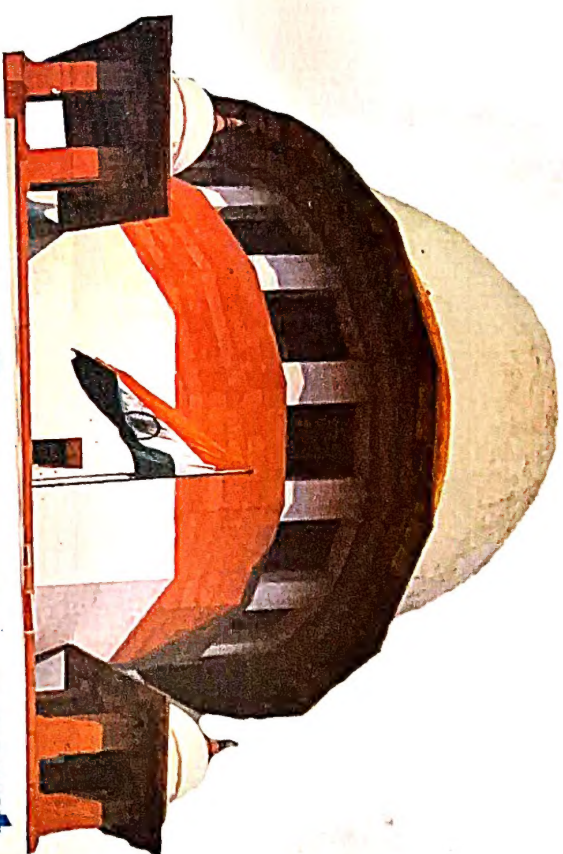
धन्यवाद!

आपका

मुल जपानी पत्र का हिंदी अनुवाद

तेन्दई संप्रदाय जपान, सीगेन संप्रदाय, सेन्जोन जोरीशू संप्रदाय, तोहोकुजी होदोशू संप्रदाय, निचिरेन शू हू संप्रदाय, जपान छिन्तोषर्म असोशिएशन, जपान शिंदो युनिटी महा असोशिएशन, म्योशिनजी लिजोशियु संप्रदाय, लिगाईशू योन्जीहा संप्रदाय, लिगाईशू तेन्देजिहा संप्रदाय, केन योंग होकेशू संप्रदाय, जपान नजोन क्योदा संप्रदाय, जपान तेन्दीक्यो त्योंदा संप्रदाय, जपान वाँककिबिटी रेम्मे क्योदान संप्रदाय, क्यो को क्यो संप्रदाय, होमोतोक्यो संप्रदाय, सिंगोशू तार्ईगोहा संप्रदाय, तोहोनी सिंगोन संप्रदाय, सिंगोन्शू शोहा रेन्गो मण्डी चोन्दांग संप्रदाय, सिंगोन्शू दार्ईककुगो संप्रदाय, लिगाईशू बन्चूजिहा संप्रदाय, शिन्शू बूक्योजूया संप्रदाय, शिन्शू ओतानिहा संप्रदाय, जोडो शिन्शू ओगाञ्जीहा संप्रदाय, कोयासंग हिगोन्शू संप्रदाय, क्रोजमिक्यो संप्रदाय, शिंगोन्शू कोगोईका संप्रदाय, सेब्रंग ज्योशेशू संप्रदाय, नेम्यो सिक्यो संप्रदाय, सिंगोन्शू मिमोहिहा संप्रदाय, सिंगोन्शू सेन्चूजिहा संप्रदाय

यह पत्र ५००० लोगों के सहिदय दिया गया था।



Hon'ble Supreme court. Observed that

"A law which takes away the right of administration altogether from the religious denomination and vests it in any other or secular authority, would amount to violation of the right which is guaranteed by Article 26 (d) of the Constitution. In short, the administration of the property must remain with the religious institution, though it may be regulated by law. Regulation by State again, cannot interfere with things which are essentially religious."